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VOL. XIII.]

[Number 1

JOURNAL

OF THE

CANADIAN BANKERS' ASSOCIATION

OCTOBER—1905

EDITORIAL NOTES

The face value of the paper currency condemned as unfit for further circulation, and destroyed by the directors of Canadian chartered banks during the year, 1904, exceeded twenty millions of dollars. While it has never occurred to the directors and managers of the banks of Canada to make any use of the old and worn-out paper money, our practical American cousins have permitted a more or less flourishing industry to be built up by utilizing the pulp of the destroyed paper currency. A Chicago financial paper is our authority for the statement that the quantity of old paper currency destroyed after redemption or exchange at the Washington Treasury is "so large that contractors buy the macerated pulp by the ton and carry it off to be turned into paper

Worn and Defaced Bills

again." While this statement may prove to be a bit of eminently plausible fiction, it bears sufficient resemblance to the truth to excite attention. Tourists and sightseers have been buying as souvenirs for many years past odd looking images representing notable personages moulded from a pulp made from the destroyed United States bank notes. The colour of the material is said to be "a dirty greenish grey" with an occasional sign in its make-up of having once had printing on it. It seems that busts of the immortal George Washington are most in request, although we see no reason why images of Coxey, Carrie Nation, or even Thomas W. Lawson, should not command an equally ready sale among the sort of tourists who purchase curiosities or seek for souvenirs at every place they visit. The "Chicago Banker" says:—"On the bottom of each little image is a certificate from its manufacturer to the effect that it was made out of greenback money after maceration by the United States Government, and that that specific article represents about \$5,000, or \$10,000, or some other big sum." It may well be claimed that the idea is sufficiently quaint to lure coin from the pockets of tourists. There is something almost sad in the death of this industry. For some reason best known to themselves, the National Banks have induced the Comptroller of the Currency to issue an order that no pulp shall in future be sold to the image makers. The said image makers have, as a rule, been wounded veterans, or the widows and daughters of soldiers. One old warrior and maker of images, a survivor of the Civil War, whose savings have been invested in the moulds with which he turns out the busts of celebrated or notorious people, is said to have been "so stunned by the order that, when he came into the Treasury to protest, it was feared he would go crazy."

So far as can be ascertained from perusal of this interesting story about the end of worn-out paper money in the United States, the cruel edict, by which a veteran of the civil war and his fellow sufferers have been left, like Othello, without occupation, is the result of a flaw in the machinery used in the destruction of defaced currency. Occasionally fragments of a National Bank note were torn off by the machine of a size large enough to contain the charter number of the issuing bank. The presentation of these remnants of notes for redemption at the issuing banks has killed the business of the image makers, and

the veterans and the widows and the orphans concerned are said to be in a sad state over it.

Fortunately, Canadian bankers have no such question to deal with. So long as the directors of our chartered banks are willing to watch the destruction by fire of the paper money with which we are all more or less familiar, no suggestion of any mechanism whereby bank notes can be converted into images of Canadian celebrities is likely to find favour in this peculiarly happy country.

Pensions

The increasing attention bestowed upon the pension funds of the chartered banks is deserving of notice. About twenty-five years ago the shareholders and the general manager of one of the leading banks, desirous to acknowledge loyal and faithful service by members of the bank staff, established a Pension Fund Society, which has since been regularly incorporated by Act of Parliament. The prospect of a pension must of necessity play no small part in binding bank officers to the institutions they represent. Consequently, a number of the banks have adopted the pension plan. The bank officials contribute to the funds a percentage of their salaries, said percentage being deducted monthly as a rule from the salary pay lists. In fixing the period of usefulness of officers and clerks of Canadian chartered banks, it would seem that the general managers of the period when pension fund societies were first formed anticipated the opinion expressed by Dr. Osler of man's capacity for good work, as any officer on the attainment of his sixtieth year of age can demand a pension and retire from the service.

Another provision of the ordinary Bank Pension Fund Society, calculated to make the bank official, subject to the embargo of marriage placed upon him in earlier years, worth waiting for by an impatient sweetheart, is the consideration extended to his widow. So long as she lives and remains unmarried, she is entitled to one-half of the yearly amount to which her spouse would have been entitled at the time of his death. Several of the banks have even given consideration to the possibility of a widow desiring to remarry, and in this event the pension of the deceased bank official descends to his children. Mr. B. E. Walker, General Manager of the Canadian Bank of

Commerce, at the annual meeting of shareholders held in January last, expressed the hope that none of them entertained any doubt about the desirability of superannuation funds. He claimed that a bank needs the solidarity and enthusiasm of its officers, and that mere lip, eye, or hand service is not sufficient. Mr. Walker is an ardent advocate of a much higher kind of service, and he therefore said upon the occasion referred to:—"If we expect men to give their lives to a bank, and to answer in its service to any call made upon them we must not expect that we can deal with them as easily as with a hand in a factory who is paid off on Friday night."

The large army of bank officials will be grateful to Mr. Walker for his bit of special pleading on their behalf. They will agree with him in the statement that the officials of a bank should be made to feel that faithful service will be rewarded, and that the bank "will take care of them" in the evening of life.

The collection departments of Canadian banks are occasionally the recipients of instructions to hand drafts, when acceptance has been refused, to a lawyer. Very few gentlemen of the legal profession in this country make a specialty of collecting so-called bad debts for their clients, and those who do are not likely to advertize their skill and ability in the breezy fashion adopted by Mr. Graham, of Texas, whose card reads as follows:

**An Energetic
Collector**

HELL HAS TORE LOOSE IN TEXAS

OLD ACCOUNTS COLLECTED
IN ANY PART OF THE STATE

I Skin Men for One-Half of the Hide and Tallow

Twenty-five Years Experience in the Collecting
Business Has Taught Me How to Measure the
Track of Every Man who Can and Won't Pay
His Honest Debts.

D. L. GRAHAM, LAWYER,
Georgetown, Texas.

A shortage of currency in the City of Pittsburg was recently reported. The banks are said to have been begging and borrowing from each other, and offering in payment for supplies of bills New York exchange at attractive rates. While the shortage is attributed to the great demand by the industrial companies for pay roll money, another cause is due to a change made by the Pennsylvania Railroad of paying the workmen in cash instead of by cheque.

**A Currency
Famine**

Currency reform crops up as a question for discussion by bankers and political economists in the United States every few years without any measure of permanent relief being found and adopted. About twelve years ago, so great was the demand for bills in daily circulation that a premium was obtainable for them, and Canadian paper money found free circulation in the State of Maine.

The trouble experienced at Pittsburg and elsewhere in the United States in obtaining currency for the purpose of daily business is probably being carefully studied by Canadian bankers. The rapid growth of the Dominion of Canada calls for the closest attention being given to the experiences of our neighbours. Although at present the currency question is not a subject for serious discussion in this country, several of our chartered banks can sympathize with the Pittsburg institutions reported as suffering from a shortage of circulating medium.

The printed promises to pay, issued by the Dominion Government and the chartered banks, must be held inviolate, or Canadian paper currency will lose its value. During the last session of the House of Commons at Ottawa, a member of parliament questioned the necessity of holding gold against the issue by the Government of paper currency. He expressed the opinion that the pledge of the Dominion of Canada sufficed to make its money perfectly good, and it ought to be accepted everywhere without hesitation. He also inclines to the belief that a gold reserve is a relic of the stupid old times, and he ventures to think that the country could have some profit on an issue of paper currency even if no gold is held for the purpose of redeeming notes

**Paper
Currency
Heresies**

"sufficiently guaranteed by the credit of the Dominion of Canada."

Leaving Mr. Samuel L. Kydd, the author of the admirable article on "Paper Currency Heresies," published in this issue of the JOURNAL, to deal with the idiosyncrasies of a misguided member of parliament, we content ourselves with a reference once again to the fallacious belief of many people in profit accruing from the issue of paper currency. The fate of the early issues of notes of Canadian banks has clearly established the percentage not presented for redemption to be under $\frac{1}{2}$ of 1 per cent. of the enormous amount placed in circulation, and the yearly growth in the banking facilities granted to the people of the Dominion will reduce even this small percentage almost to the vanishing point.

The Dominion of Canada is not the only country to which attention is being attracted by reason of the prevailing activity in industrial pursuits and the general development of its natural resources.

How Mexico Moves

Mexico is enjoying a period of prosperity, and the banks are evidently quite alive to the condition of things and determined to assist in promoting the welfare of the people by keeping pace with the growth of the country.

The National Bank of Mexico, at Mexico City, has issued a call for a meeting of stockholders for the purpose of discussing an increase in capital. The bank's capital is now \$26,000,000 (Mexican). It is understood that the capital will be raised to \$50,000,000. Shares are now quoted at 945 francs at Paris and \$366 in Mexico.

The vast undeveloped resources of Mexico are now attracting universal attention, and foreign capital is contributing largely towards the era of general prosperity at present being experienced throughout the Republic.

The Mexican Government, with the object of protecting and guiding foreigners in the safe and conservative investment of capital in Mexico, has assisted in creating the International Financial Association for the purpose of supplying reliable information concerning the general conditions of the country.

In the course of a very instructive address at a meeting of the American Institute of Bank Clerks held in Minneapolis, Mr. L. Stewart-Patterson of the Eastern Townships Bank gave his

**Canadian
Currency**

hearers a description of the Canadian system of bank currency which will prove interesting even to his fellow bankers in the Dominion.

The tables giving the volume of circulation of the Canadian chartered banks form a capital illustration of its automatic expansion and contraction at certain seasons of the year.

The tables compiled as they are from the monthly returns rendered to the Canadian Bankers' Association, are worthy of preservation for the purpose of following the growth in the trade and commerce of the country.

The expansion of paper currency issues in the United States in response to the demand for crop-moving purposes has this year met with an unusual obstacle. The Treasury

**Our Neighbors
Currency
Troubles**

officials had not, apparently, made the usual preparations beforehand, and were unable to print the notes as fast as they were wanted by the banks. Absences of members of the staff on vacations is one of the reasons assigned for this failure, a reduction of appropriations, coupled with an increase in the ordinary work of the bureau concerned another. The activity of redemptions of paper currency in the year 1903-4 was very greatly in excess of that of the preceding year. The people want clean notes, and their demand, passed on through the banks to the Treasurer's department, has not been fully met. The return of notes which were slightly soiled to the circulation has aroused complaint.

The expansion of national bank note circulation since the beginning of the current calendar year has been no less than \$56,000,000, of which some \$20,000,000 was recorded in the third quarter of the year. An expansion of twenty millions is, however, little more than four per cent., a proportionate increase which would be unable to produce inconvenience to our chartered banks, even if occurring in a much briefer space of time than three months. In the management of redemption and replacement of worn notes, and in making ready provision for additions to the issue, the Canadian system would appear

to be free from the inconveniences which are here referred to as a part of the recent experience of the National Banking system as well as in other respects. If we handle soiled bills, as we certainly do more frequently than is pleasant, it is not because the provision of clean bills in the necessary amounts is a task beyond the powers of the officials to whom it is entrusted.

The regulations which require that Canadian cattle imported into the British Isles shall be slaughtered within ten days of landing are a recurrent cause of dissatisfaction to many Canadians. A point which should not be lost sight of in connection with this restriction is that only two other countries besides Canada may at present send live cattle to the United Kingdom. These two are the United States and Iceland. Canada, therefore, so far from being treated with exceptional harshness, is one of an extremely limited group of countries enjoying most-favoured-nation treatment. No country gets better terms, and only the two named obtain equally good terms. It is reported that Argentine cattle are being landed at Antwerp and there killed so as, on importation into England, to fulfil the conditions of the law.

**Canadian
Cattle
Question.**

The gold production of the world is increasing with startling rapidity. Last year it exceeded \$350,000,000, and the output for 1905 will be greater than that for any ten consecutive years preceding 1850. The low-water mark since that date was reached in the early eighties, when less than \$100,000,000 in annual value was produced. In the time of greatest activity of production after the opening up of California and Australia, the output for the five years, 1856-60, was about \$670,000,000. This figure is exceeded by the production of the two years, 1903 and 1904. The centres of production which have contributed most to the output of recent years are maintaining or increasing their activity, while operations in numerous localities from which little has hitherto been obtained are likely to result in substantial additions to the already large supplies. But recently a scarcity

**The Gold
Supply**

of gold was regarded by many as the origin of a business depression affecting the world at large. To what extent the maintenance of a comparatively high level of prices, and the general activity of business in the last half-dozen years, may be due to the expansion in gold production is a matter for curious speculation.

A change of considerable importance has been introduced into the Indian paper currency system by an Act of the present year. As in Canada, expansion of the paper currency has led to an increase of the fiduciary part of the issues. The increase is not at all extravagant in amount, and would hardly call for notice but for the change in reference to the securities to be held against this addition. Instead of being limited to rupee paper held in India, the addition now made may consist of sterling securities of the British or Indian Governments, and may be held, if desired, in London. Such an investment may provide a valuable means of maintaining Exchange, since a sale of sterling securities in London might enable the Secretary of State to reduce his sales of council bills. The substitution of rupee paper in India for the securities sold in London would be a simple matter. The extension of the principle involved in the holding of part of the metallic reserve in London so as to cover the reserve of securities as well is of no little potential importance.

The efforts to bring about closer commercial relations between the colonies of Great Britain make everything relating to Australia and South Africa of peculiar interest to Canadians.

Industrial De- velopment in South Africa

In this number of the JOURNAL will be found a paper by Mr. W. J. Jagger, a member of the Legislative Assembly at Capetown, South Africa. The views of Mr. Jagger upon the Prospects of Industrial Development in South Africa have been discussed by the members of the Institute of Bankers in that country, and, although he is regarded as a pessimist, there are many who incline to his opinion that too much dependence is being placed upon the mining industry and too little upon the cultivation of the soil.

The steps taken towards separate national existence on the part of the Colonies of Great Britain may well be regarded as one of the most important political movements of the period.

Colonial Nationalism

In the visit of distinguished men like Sir Frederick Pollock, and in the appearance of a new book like "Studies of Colonial Nationalism," by Mr. Richard Jebb, we find evidence of the extent to which the demand for independent National existence has developed.

A masterly review of Mr. Jebb's work, by a banker in South Africa, cannot fail to be interesting to Canadians, and the book itself is likely to make the English reader realize the nature and extent of the National movement in the Colonies, and to suggest thought about the adaptation of Imperial policy to the new conditions prevailing throughout the Empire.

A review of Colonial Nationalism, recently published in London, is reproduced elsewhere in this number.

Politeness is always necessary to complete the happiness of society in every situation.

Some American papers are circulating a story to the effect that a bank official, presumably a teller, was recently left a fortune by a dear old lady, because he had always been polite to her when she had visited the bank. Although this may be only a beautiful bit of fiction woven for the purpose of inculcating among tellers the virtues of patience and politeness, there is no doubt that civility is worth cultivating. However, lest the public may be inclined to regard this pretty tale as a reflection upon the general line of conduct and behaviour of United States bank officials when waiting upon women, the *Baltimore American* contends that the rarity of such an occurrence is due not so much to the lack of politeness on the part of bank tellers as to "the scarcity of wealthy and appreciative old ladies."

Politeness Pays

In Canada, all tellers would seem to have been personally selected by the bank managers, partly for their pleasing appearance and charming behaviour in the presence of ladies old or young, and the hope of reward for being polite will not be aroused by this possible fable about the American Teller and the Lady.

THE HISTORY OF CANADIAN CURRENCY, BANKING AND EXCHANGE.

THE ECONOMIC ATMOSPHERE OF THE BANKS, BEFORE AND AFTER CONFEDERATION.*

WE have already dealt with some of the larger and more prominent features of Canadian currency and banking during the Confederation epoch. In order to complete the historic survey of that important transition period, it is necessary to supply some of the representative details and conditions, which furnish the atmosphere of the banking and exchange operations of the time.

The dominant underlying feature of Canadian business for the decade before and the decade after Confederation, was the fact that the commercial capital and enterprise of the country were directed chiefly in two channels. In one, we have the purchase and export of the products of the agricultural and lumbering industries, with which were associated numerous flour and saw mills, since greatly reduced in number. In the other line, we find the wholesale importing trade, dealing chiefly with manufactured goods with which it supplied the ramified retail trade of the country. Transportation was, of course, a steadily increasing adjunct to these lines of commercial outlet, and the

*Chief sources:—

Statements relating to the Home and Foreign Trade of the Dominion of Canada; also Annual Report of the Commerce of Montreal, by W. J. Patterson, Secretary Board of Trade, and Corn Exchange Association. For years 1864 to 1880. (The wording of the title varies somewhat during that period).

Report of the Select Committee on the Causes of the present Depression. Ottawa, 1876.

The Globe, Toronto, 1860-1878.

The Montreal Witness, Monthly Financial Review, 1860-1876.

The Leader, Toronto, 1862-1874.

The Canada Gazette, 1860-1880.

large expenditure of foreign capital connected with the construction of the railroads had a special, though temporary influence upon the prosperity of the country.

As Canada developed, and with it the attractions of urban life and the seductive possibilities of commercial enterprise, the exporting and importing branches of trade afforded the only considerable opportunities for gratifying business ambitions. There grew up, therefore, during the period in question, an abnormal competition in these lines, with corresponding waste of capital, energy, and talent, accompanied by a feverish state of speculation, recklessness and lowered business morality. Great risks were incurred by exporters in buying at long ranges of space and time, with ultimate dependence upon the British market, from which they were shut off for half the year. A more immediate market for secondary agricultural products was furnished by the United States; but other causes, chiefly the civil war and the fluctuations of an irredeemable paper currency, rendered that market also uncertain and suggested caution. Occasionally large profits were made, which only stimulated competition and led to more disastrous results. On the other hand, excessive competition among importers and their retail clients, resulted in a chronic over-importation and long credits. Whenever a couple of poor harvests succeeded each other, or there occurred a stagnation in the lumber trade, the crop of failures throughout the country was out of all proportion to the business done. The law relating to insolvency being very defective and business morality subjected to a heavy strain, bankruptcy and compromise were often of alarming frequency. Still, the strenuous competition to secure business enabled bankrupts to speedily resume operations and obtain goods and credit on very inadequate security.

This excessive competition by no means insured cheapness. On the contrary, such an extravagantly over-manned and over-capitalized system meant, in the long run, a great waste of means and energy, which precluded profit to the trader or cheap supplies for the consumer. As an incident of this waste, there was necessarily employed a large amount of capital in proportion to the amount of business actually accomplished. One effect of this was to unduly enlarge various columns of the bank reports.

The banking system itself, however, was steadily tending towards greater economy, alike for the banks themselves and

the exchange work of the community. The deposit and discount features of the bank returns gradually increased, until, in many cases, they exceeded the capital and circulation of the banks. Early in the seventies this movement was somewhat obscured by the effects of the abnormal speculation in bank stocks. From time to time also, the great economy of the branch bank system tended to be neutralized by the multiplication of banks and the uneconomic competition of numerous branches in small towns.

The official bank returns, as furnished to the Government, up to the introduction of the new system in 1871, were often very misleading. This was due at once to their intrinsic defects and to the numerous changes, legislative and other, which were taking place, and which destroyed the value of most comparisons extending over a number of years. Spurious arguments, both optimistic and pessimistic, were freely drawn from the returns and their comparison, by those who made no effort to go beyond the data furnished. In 1864 the Auditor General admitted, before a committee of the Legislature, that the bank returns were not necessarily reliable as there was absolutely no check upon the reports received. They were simply printed in the *Gazette* as sent in by the banks. After the failures of the Bank of Upper Canada and the Commercial Bank, it was observed that their returns gave no indication of the actual condition of their affairs. The same was true of other banks which barely managed to weather the storm, or escaped collapse by amalgamation with others. Though the system of returns introduced by Sir Francis Hincks did not remove all these defects, which even yet are not entirely eliminated, yet it effected a great improvement upon the previous practice.

The crisis of 1857-58 checked the rapidly increasing tendency to speculate in new bank charters, and the collapse in 1859 of a couple of these mushroom institutions, the International and Colonial banks, brought the movement, for a time at least, to an abrupt close. These and other charters, however, remained upon the statute book, and in various ways constituted a menace to the general credit of the Canadian banks. Some questionable dealings with reference to one or more of these charters, led to an agitation for their repeal. In the Legislature the movement was chiefly directed by Mr. Simpson, member for the Niagara district, and who confessed to having

been so far imposed upon as to lend his aid in procuring one of the charters in question. He first brought the matter to the attention of the Government in 1860, and again in 1861, through a communication to the Minister of Finance. At length, in 1862, he secured a committee of the Legislature, which was appointed to inquire as to the expediency of taking steps to prevent the misapplication of certain bank charters, and especially those of the Bank of Clifton, formerly the Zimmerman Bank, and the Western Bank of Canada. The committee reported that the position of both these institutions was such, "that it would be discreditable to the Legislature to allow their charters to remain in existence any longer." During that session, however, no further action was taken, the Government apparently not wishing to revive unpleasant memories. The Attorney General made to Mr. Simpson the very lame but significant excuse that, in granting the charters in question, the Government had been unable to resist the importunity of members from both sides of the House.

There was not, indeed, much danger of these charters being made the basis of any considerable banking business in Canada. But Mr. Simpson had learned from his investigations that at least a couple of the charters were in the hands of speculative concerns from the United States, whose intention it was to flood the western states with the issues of institutions which could be proved to be chartered Canadian banks. For a time such operations were specially favoured, for, owing to a peculiar condition of international exchange before the outbreak of the American Civil War, which placed British gold for a time at a discount, it was not profitable to return Canadian bank notes for redemption. Under such circumstances these speculators would be enabled to trade upon the reputation of the Canadian banks long enough to get a considerable quantity of their notes into circulation, without the embarrassment of their immediate return. As a result of these revelations, Mr. Simpson finally managed to get his bill through the Legislature during the second session of 1863. This repealed the acts of incorporation of the Colonial, Western Canada, International, and Clifton banks.

In the meantime the Bank of Brantford, which had escaped Mr. Simpson's guillotine, had gone into operation and had apparently managed to circulate a considerable number of notes,

chiefly in the United States. Nearer home they were regarded with too much suspicion to be readily received or held. In 1863, when gold was once more at a premium, these notes, in common with others from Canada, rapidly returned for redemption. The Brantford Bank speedily collapsed in the face of such an experience, but few Canadians proved to be holders of its notes.

The recovery from the crisis of 1857-58 was slow and interrupted. The gradual improvement of 1859 received a considerable impetus from the bountiful harvest of 1860, which greatly stimulated trade, and would doubtless have induced, under the spur of eager competition, quite a speculative expansion had it not been followed by a couple of poor harvests in 1861 and 1862. The situation was further complicated by the outbreak of the Civil War in the United States. On the whole, however, the trade of Canada was steadily expanding.

The crippled condition of the Bank of Upper Canada, and the tying up of much of the capital of the Commercial Bank and others of the older banks, afforded greater opportunities than appeared on the surface for the expansion of the newer and untrammelled banks. Among these the most stable, enterprising, and best managed were the Ontario Bank and the Bank of Toronto, which were rapidly building up extensive and profitable businesses. The general situation encouraged an application for charters on the part of several new banks, especially in Lower Canada where the effects of the late crisis had been least felt. It led also to applications by several of the older banks for amendments to their charters and authority to increase their capital. We shall subsequently sketch the origin and development of some of the more important of these new comers. Meantime, however, to avoid confusion from trying to follow too many threads at once, we must confine our attention to a survey of the conditions into which these new banks were born.

The year 1863 showed considerable improvement over the two previous years. The crops were good and the country at large fairly prosperous. But the British markets were very uncertain, and overzealous speculative competition among Canadian buyers and exporters maintained the list of commercial disasters. The lumber trade also was stagnant, but trade with the United States was brisk and profitable. Throughout 1864 business continued fairly good, especially in western Canada. There was, in con-

sequence, a steady expansion in the demand for bank accommodation. But, owing to a panic in the British money market, with the Bank of England rate standing at seven per cent., the Canadian banks naturally leaned to the side of caution, and, though considerably expanding their discounts, were compelled to decline many appeals for accommodation. In consequence, not a few merchants, still in the toils of over trading, found themselves forced to seek assistance from the street where they paid abnormal rates. Thus, a year which was quite above the average for the farmers, manufacturers, and craftsmen, was, on the whole, much below the average for the trading or commercial class.

In 1865 the American Civil War came to a close. Contrary to general expectation, in place of the anxiously awaited collapse, the close of the struggle was followed by an abnormal outburst of commercial activity. This was generally attributed to the enormous amount of paper money in circulation, and the first outbreak of pent up activity among the commercial and manufacturing classes of the victorious and optimistic Northern States. The Reciprocity Treaty being still in force, and Canada the nearest market for the purchase of produce and raw materials, and being fortunately blessed with an unusually good harvest, there resulted a phenomenal export trade. This exceptional outburst of prosperity for Canada was only very partially checked by the close of the reciprocity arrangement in 1866. That the people of the North had a large amount of gold stored in private hoards, was evident from the fact that all forms of Canadian produce, lumber, grain of every kind, cattle, sheep, horses, wool, dairy produce, and indeed everything saleable except manufactured goods, was bought up at high prices by eager American agents who scoured the country and paid for their purchases, not through the agency of the banks, but in gold coin.

The boom in the United States was regarded by the more conservative Americans with much misgiving. But, though there followed a certain reaction, felt also in Canada, yet it was only temporary. Later in the seventies, when prolonged stagnation led Canadians to contrast the high prices and unlimited market which the United States afforded at the close of the Reciprocity Treaty with the subsequent hard times and closed door, there naturally arose an exaggerated idea of the remedial

effects of reciprocity. But reciprocity would have been of no avail when the American markets were glutted with the very articles which we had to sell, and they were equally eager to sell us what we could not buy from our own dealers for lack of means.

There were two movements of capital from 1860 to 1865 which had a considerable influence upon Canadian banking and financial affairs generally. The first was due to a plethora of cheap money in Britain, following the crisis of 1857-58. Considerable sums were transferred to Canada to be invested in mortgage securities. This, in turn, led to the establishment of a number of trust and loan companies. Both directly and indirectly this movement resulted in augmenting the deposits of the Canadian banks. It led also, as we shall see, to the establishment in Canada of branches or agencies of British banks, which for a time did a considerable business. But, when the crisis of 1864 led to a sudden rise in the value of money in Britain, not only did the influx of British capital suddenly cease, but all the fluid funds already sent were immediately withdrawn, to the great embarrassment of Canadian clients. Before the British capitalists had an opportunity to resume their operations in Canada, there resulted the far greater crisis of 1866, centering around the famous failure of Overend, Gurney and Company. This completely snuffed out the promising development of direct British operations in the Canadian money market.

Meantime, however, during the progress of the Civil War, a steady stream of American money, chiefly from the Southern States, was being transferred to the Canadian banks for safe keeping. This took the place of British capital withdrawn and assisted in maintaining a fairly steady expansion in bank deposits. For various reasons, among them doubtless the slowness of reconstruction in the Southern States, these funds were only gradually withdrawn after the close of the war.

Another good crop in 1866 insured general prosperity, but the uncertainties of Finance Minister Galt's new Bank of Issue scheme, the final collapse of the Bank of Upper Canada, and the enhanced power of the Bank of Montreal, which induced suspicions as to its arbitrary and ruthless exercise to the detriment of rivals, tended to make the banks in general unusually cautious. There was, therefore, much stringency in the money market during the latter part of 1866. In October the new

provincial notes were in circulation and the Bank of Montreal had withdrawn its notes, or, more accurately, they had been converted into provincial notes.

As we have seen, notwithstanding the abrogation of the Reciprocity Treaty, trade with the United States was well maintained during the autumn and winter of 1866, and the year closed with wheat selling at from \$1.30 to \$1.50 per bushel. The money market at the opening of 1867 was somewhat easier, the banks granting a liberal extension of accommodation even in the face of slightly diminished deposits.

During the first half of 1867 the high prices of farm produce were firmly maintained, wheat having gone as high as \$2 per bushel, a price unknown since the Crimean war. While trade was brisk in most sections of the country, yet, under the old strain of over competition, excessive importation was as marked during prosperous years as during those of adversity.

Outwardly at least, for the first half of 1867, money was fairly plentiful, obligations were well met, and there was a general feeling of ease and security with a bright outlook for the inauguration of the new Dominion on the 1st of July. By the middle of the year, however, the American boom, upon which this period of Canadian prosperity so largely depended, received a severe setback. Speculation in wheat and flour had raised the price of the former to \$2, when the rare experience of importations of wheat from Europe broke the market and the price tumbled twenty-five per cent. The reaction was the more emphatic owing to a rapid rise of exchange on Britain followed by a considerable export of gold. The drop in prices did not affect the Canadian farmers, who had little grain on hand, but it severely pinched those dealers and millers who had stocks on hand at the time.

The depression in England which followed the disastrous crisis of 1866, led to the stagnation of the lumber trade, which seriously affected the east, while the failure of the Commercial Bank in the latter part of the year had a very unsettling effect upon the west, and rudely startled some of the other banks out of a condition of easy going security. With the collapse, within a little more than a year of each other, of the two largest and best known of the banks of western Canada, the hitherto implicit faith of the public in the stability of the Canadian banks received a rude shock. A movement for the withdrawal of

deposits from several other banks whose stability was regarded as doubtful, brought the banking situation in western Canada to the verge of a panic. There would certainly have been a disaster had not the country generally been in a fortunate financial condition. The intervention of the Government and the co-operation of the banks enabled them to tide over the crisis in comparative safety and without any serious sacrifice of securities. At the same time the run upon the banks was by far the most severe in the history of the country up to that time.

This crisis precipitated an immense amount of discussion on the subject of banking and, especially in financial circles, on the mutual relations and obligations of bankers. Thus, a year which opened so propitiously for the banks ended with a remarkable unsettlement of the public mind on all financial matters. The outcome of this situation as regards the measures brought before Parliament, we have already discussed.

The year 1868 opened with a depression in the banking business and an unusual stringency in the money market, in spite of the very large increase in the country's receipts within the past few years. Considerable quantities of good commercial paper were declined at the banks and had to pay twelve to eighteen per cent. for accommodation on the street. The penalties against usury having been lately repealed, the banks themselves were reported to have charged unusually high rates for the accommodation which they had afforded.

Owing to the severe losses sustained by many of the banks of recent years, and following largely the example set by the Bank of Montreal, an important change was coming over the practice of bankers in granting discounts. A large proportion of the bank discounts from the earliest days of Canadian banking had been advanced upon accommodation paper, the ultimate security being usually some form of real estate. A man presented to the bank his own note, backed by one or more sureties, and obtained advances thereon. The banker had little direct knowledge of the uses to which the money might be put, or the amount of such accommodation paper which might be in pledge, especially since the number of banks had increased and speculative over-competition had grown up. It was apparently a common practice for borrowers to become sureties for each other's paper, discounted at different banks, and to an indefinite extent. The management of the Bank of Montreal,

in the annual reports of 1864 and 1865, referred to the practice of advancing upon accommodation paper as the chief cause of the large bank losses of recent years. That they spoke from concrete knowledge was evident, for, a few years later, Mr. King, the manager of the bank, admitted that it had lost over one million dollars through bad debts in western Canada alone within the three years ending in 1866. Such experiences, even more severely felt by some of the other banks, led the bankers to change their methods, and in future they confined their advances much more closely to actual productive and distributive processes, as represented by such documents as bills of lading, warehouse receipts, and other evidences of *bona fide* trade.

One of the most beneficial results of this policy was to differentiate the business of banking from that of the trust and loan companies, whose numbers and business considerably developed from this period. Thus did the Canadian banks discover from the teaching of experience, what an English banker has declared to be the whole art of banking, namely, to be able to distinguish between a bill and a mortgage.

Specialization in the sphere of financial affairs was a growing feature in Canadian business during the later sixties. Numerous brokers made their appearance in the cities of Montreal, Quebec, and Toronto, and private banks rapidly multiplied. From among the host of new competitors, passing like a stream through the exporting and importing trades with their associated branches, by the process of natural selection a number of extensive new houses had lately come to the front, while very many in the procession went to swell the list of bankrupts.

The stringency in the money market which had characterized the greater part of 1868 eased off with the assurance of a fairly good harvest. One of the results of a succession of good crops and high prices had been to create an active demand for farm lands, which had been such a drug on the market for years after the last land boom.

While the year was closing with an improved outlook in the western provinces of Ontario and Quebec, New Brunswick was having a financial crisis, in the midst of which some shaky banking institutions came to grief. The Commercial Bank of New Brunswick was one of those which had not learned the true function of banking, but the management of which had of late years learned and employed a number of corrupt prac-

tices. Outside of actual fraud, the funds of the bank had long been tied up in protracted investments, the securities for which had perished through general decline. Like the Bank of Upper Canada it had a long history and formerly a high standing. Like it, also, it managed to entangle the Provincial Government by obtaining from it extensive deposits. The subsequent investigation of its affairs disclosed gross corruption in connection with the management. The Scovill private bank of St. John also failed, in spite of offers of over six per cent. for deposits. As it acted as agent for the St. Stephen Bank the latter found itself compelled to suspend for a time, though it afterwards resumed.

That it requires more even than good crops and prosperous farmers to insure commercial profits, became evident as the year 1869 wore on. The demand from the United States had fallen off, popularly attributed to the abrogation of the Reciprocity Treaty, but really due to the reaction in that country. Over-competition in Canadian trade at once revealed its effects. During the year the number of failures exceeded anything known since 1857. The farmers generally, being in a good financial position, held back their grain awaiting a recovery of prices. Meanwhile trade stagnated, with deposits piling up in the banks. On May 21st the Royal Canadian Bank, one of the newer institutions, suspended, having managed to acquire quite an array of bad debts in its brief career. This was largely due to poor management the result of nepotism. Later on, under reformed control, it resumed. In the meantime, however, the effect was very trying to the nerves of the body financial. One or two other banks were understood to be living on sufferance, and that "heavy villain," the Bank of Montreal, was suspected of a design to crush a few of them and thereby prove to the public that the Canadian banking system required remodeling in accordance with the views of Messrs. Rose and King. For, in the meantime, the whole banking system was once more in the melting pot, in consequence of the introduction of Mr. Rose's new general bank measure, which has already been dealt with. But, Mr. Rose having withdrawn his bank bill in deference to clamorous opposition, and no further bank suspensions following, the tension was relieved after midsummer, and in quiet stagnation financial interests awaited the verdict of Nature in the shape of another harvest.

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As the crops matured and the prospects for a good harvest brightened, activity in banking resumed. Moreover, the banks were loaded up with ever increasing deposits on many of which they were paying interest and which they must therefore seek to employ. Competition among money lenders led to cheap money and invasion by some banks of each other's preserves or zones of influence. This was particularly charged against the Bank of Montreal by some of the western banks. We cannot at present go into the interesting operations of the Bank of Montreal at this period. As part of the general financial history of the time, however, it is necessary to observe that not only had that bank, in common with the other banks of the country, large accumulations of deposits, but, as the Government bank, it had lately received on deposit large sums, the proceeds of the Government loan for constructing the Inter-colonial Railway. In seeking in Canada an increased outlet for these large supplies of idle capital, the bank sought to increase its grain-moving operations in western Canada. But in doing so it invaded territory already occupied by the western banks. Their chief complaint, however, was that, by cutting rates, it sought to secure the most profitable and least risky of the trade operations, leaving to the local banks the more difficult task of financing the local dealers in collecting the produce and the retail traders in carrying their stocks of goods through the uncertainties of the various seasons. The operations of a smaller bank in such a course would doubtless have attracted but little attention. But at this time the Bank of Montreal enjoyed, as well as suffered, an absolute ascendancy in Canadian finance, emphasized by the disappearance of its most prominent rivals and by its monopoly of the Government account as well as of the Government issues of legal tender notes. But, above all, its extraordinary influence in Canadian financial affairs, as well as on the New York gold and international exchange markets, was due to the remarkable personality of its general manager, Mr. King, who at this period became president of the bank, but in either position dominated its policy. Freely recognized at the time as the Napoleon of Canadian finance, he and the bank which he controlled were at once feared and respected, the subjects publicly of endless denunciation and privately of the sincerest flattery. Under his management the bank had been phenomenally prosperous, but not through financ-

ing Canadian tradesmen. The stock of the bank, whose price reflected the bank's prosperity, was the central feature of the Canadian stock market, and during the early seventies was the most important factor in the first great development of stock speculation in the history of Canada.

Though the harvest of 1869 proved quite good, the farmers repeated the policy of the previous year and held off for better prices, signifying in those days something considerably over a dollar a bushel for wheat. This year, however, their expectations were not realized. The movement of the crops being slow, the plethora of money continued and rates declined. It was complained that mortgages which formerly had brought eight, nine, and even ten per cent. had now dropped to seven, while Government and municipal debentures were steadily rising in price.

Among other indications of easier financial conditions was the fact that the hand-to-mouth financial operations of the Canadian Government, when the Minister of Finance hardly knew where the next loan was to be obtained with which to pay the interest on those which had preceded it, was rapidly passing.

When the vexed question as to the future of the Canadian banking system and its relation to the Government notes was settled by the measures of Sir Francis Hincks, immense relief resulted for the banking community and insured a complete restoration of confidence in the banks in general.

Throughout 1870 cheap money afforded in Canada as elsewhere a constant inducement to invest wherever profits were promised. A new feature in Canadian finance, as the result of cheap and plentiful money, was the financing of a couple of new railroad projects centering in Toronto with Canadian capital, the bonds being taken up at par. Practically all the capital invested in Canadian railroads up to this time had come from Britain.

The shipment of grain from the western States by way of the St. Lawrence was being resumed and extended the field for the employment of Canadian capital, and the operations of the Canadian banks.

The prolonged condition of an easy money market was not, of course, due to an actual diminution of opportunity for the employment of capital. As a matter of fact the bank dis-

counts increased from \$57,354,944 in January, 1870, to \$72,-438,690 in January, 1871. It was simply the natural but somewhat deferred consequence of the rapid increase of the fluid wealth of the country during the past few years. The great majority of the farmers had not as yet opened bank accounts, but kept their money in their own hands until transferred to those having bank accounts, through the payment of debts, the purchase of supplies, or investment in the improvement of their farms. At the present time prosperity among the farmers is much more rapidly reflected in the bank returns.

From the spring of 1870 there was a steady improvement in the commercial outlook. For the whole of the ensuing decade Canada reflected very faithfully the upward sweep of commercial and industrial prosperity, the succeeding collapse and stagnation, and the slow recovery, which characterized British and American economic conditions. The numerous minor variations on this underlying harmony represented the local and personal features in the Canadian conditions. The psychological factor, as usual in all large movements, was very pronounced. Prosperity and adversity are alike contagious, given a system at all responsive to the spiritual virus, and speculation, like a fever, spreads in the subtlest manner and ravages the strongest constitutions.

There was a fairly good harvest in 1870, and this being followed by higher prices in 1871, gave considerable impetus to the spirit of reviving confidence and the tendency to speculation, the means for which stood ready to hand.

Certain lines of manufacturing industry, all intimately connected with the normal and expanding wants of the country, had of late been finding a steady and safe expansion. These industries, outside of the flour and saw mills, were chiefly connected with the manufacture of agricultural implements, boots and shoes, furniture, carriages, stoves and other foundry ware, paper, leather, woollens, harness, clothing, and, one of the most extensive of all, intoxicating liquors. Fortunately, as it required special knowledge, skill and enterprise, backed by a considerable amount of capital, to enter upon most of these lines, there was not the same temptation to over-competition which was the bane of the mercantile trades.

An active period of railway building, born of returning confidence and available capital, assisted in stimulating trade.

In 1871 new lines were projected and partly under construction to the extent of 1,336 miles, estimated to cost \$36,960,000. A considerable portion of this had been voted in aid by the various municipalities expected to benefit from them.

With the increase of wealth the search for safe investments naturally followed. The banking system having been placed on a permanent footing, the shares of the better banks afforded the most promising outlet. At the beginning of the period of expansion the price of bank stock rose very steadily, the average increase for 1870 being from ten to twelve per cent. At first the chief buying represented genuine investment. But the very considerable advance in prices soon attracted the speculative dealer, looking not to dividends but to margins for his profits. As the demand for bank stocks increased the dealing in their shares rose to proportions hitherto undreamed of in Canada. The amended and consolidated bank act of 1871, by placing all banks under the same general conditions, seemed to suggest the future regulation of the number of banks and the amount of their capital by the ordinary conditions of supply and demand. It was natural and inevitable, therefore, that the rapidly increasing demand for bank stock should meet with a satisfying supply. New institutions were organized with great facility and older banks as readily increased their capital.

There was, it is true, a very considerable increase in the need for bank accommodation but nothing like so much as was furnished, especially when we find how little the expanding exchange needs depended upon the increase of bank capital. The following table gives the increase in bank capital during the most active period of bank speculation. It gives also the increase of discounts and deposits for the same period:—

	Discounts.	Deposits.	Paid up Capital.
1869.....	\$57,300,000	\$43,000,000	\$30,700,000
1870.....	72,400,000	50,200,000	32,400,000
1871.....	86,800,000	56,000,000	38,500,000
1872.....	107,200,000	56,800,000	47,282,759
1873.....	118,362,000	61,800,000	53,191,194
1874.....	144,027,000	79,190,000	58,458,622

From bank shares the speculative fever spread to those of other companies representing insurance, telegraph, street railways, trust and loan companies, gas, mining, etc. The usual

practices of stock speculation in New York and other American cities were followed, and things went gaily forward with the assistance of cheap money until there came the inevitable reaction and a long period of repentance.

The competitive spirit which had caused so much waste of energy and capital, considering the work accomplished, but from which the banks had hitherto largely escaped, now spread to those institutions. The new banks, whether attracted by the market for their shares, or the extended opportunities for legitimate banking, found it necessary to make a place for themselves, and to do so opened numerous branches, alike in the older towns and in those not previously supplied with banks. The established banks with their increasing capital had no intention of allowing themselves to be distanced in the race. Thus the sharpening rivalry ended in duplicating, and even triplicating the bank service in towns whose chief basis of prosperity at the time and extravagant assurances for the future was the temporary process of their own expansion.

One result of the eager competition of the banks was the stimulus afforded to the old evil of over-trading which, of course, was rampant during this special era of expansion. Thus, in the table given above, the expansion in discounts for 1874 was certainly not justified by any corresponding increase in real business, but was evidently the result of extensive renewals, which ought to have been paid off. In 1874, which marked the turning point in the boom, four new banks went into operation.

One of the sources of confidence as to the prolonged extension of the good times which had characterized the years from 1870 to 1874, was the inauguration of the new Province of Manitoba, which, from the existing indications as then interpreted, was certain to rapidly fill up with settlers and produce many million bushels of grain within a year or two. These expectations were ultimately fulfilled, but, unfortunately, a quarter of a century too late to save those who were so confidently speculating upon them.

When the reaction had fully set in, in 1875, it was found that the least speculative sections of the community suffered least. The farmers experienced little hardship, beyond the inevitable lowering of prices for their produce owing to the world wide depression in commercial and manufacturing lines.

The manufacturers of Canada, producing the staple articles of general consumption, suffered much less than those in the United States, where they were under more artificial conditions. The trading class, however, both wholesale and retail, who had contributed so much to the froth on the cup of prosperity, were soon in dire distress and went down in great numbers, with disastrous consequences for their creditors, even such privileged ones as the banks. Indeed the banks, smitten with the competitive rashness of their surroundings, had contributed not a little to the general inflation.

The liabilities of the failures between January, 1875, and February, 1876, amounted to a total of \$26,933,707, and of this the merchants and dealers contributed no less than \$16,235,479, while the manufacturers contributed only \$5,271,631, not a little of it due to the bankruptcy of their mercantile debtors.

The general situation was very accurately summed up by the parliamentary committee who investigated the causes of the depression. "Quantities of goods out of all proportion to the actual needs of the country have been imported, and in order to find a market for them, long credits have been given to retail dealers. A spirit of commercial recklessness has been engendered. . . . To get rid of these surplus stocks mercantile agents have been sent abroad, who have assisted to set up men without capital and without experience. In every town and village their number has been multiplied even where before they were sufficiently numerous to secure a healthful competition. Large numbers of persons have thus been withdrawn from productive industry to the detriment of the public, and with no advantage to themselves."

This was indeed the culmination of over-trading in Canada. Under the forcing influence of a protective tariff the country was yet to pass through a still more wasteful period of over-competition in manufacturing for the home market, but from this time on the chronic condition of over-competition among traders was steadily relieved.

The banks suffered severely from the wide-spread failures among the merchants, but as most of them were in a fairly strong condition, having accumulated reserve funds, the greater number safely weathered the storm, and amalgamations and other saving devices covered the retreat of the remainder. From statements made at the annual meetings of several of the lead-

ing banks, it was evident that their recent experiences were by no means wasted. The mistakes of the past were carefully canvassed and an improved policy for the future largely contributed to check reckless speculation in the old lines at least, with manifest advantage to the economic stability of the country.

Having indicated the general economic conditions in the midst of which the banks of that period operated, it only remains to trace the individual history of some of the representative banks, from 1860 to 1880.

ADAM SHORTT.

HOW A GOOD EXECUTIVE SAVES TIME.

When a business executive has an income expressed in six figures—and there are scores of men who receive salaries of \$100,000 a year, he must devote his time and energies to the duties which demand his peculiar talents and which involve responsibilities which cannot be relegated to subordinates. The work which finally reaches him must pass sometimes through several processes of filtration before it is brought to his attention, and it is the private secretary who does the final work of sifting.

Just as it is unwise to use a \$100-a-day machine to do \$90-a-day work, it is unwise to squander the time of an executive. A \$10-a-day man who devotes half his time to detail work that might be done by a two-dollar-a-day stenographer wastes four dollars' worth of time daily.

"I do one thing at a time," is the first maxim of a modern business executive, and no man can concentrate his energies on a single object when his mind is disturbed by small details. Fifteen minutes a day spent in opening the morning mail represents a loss in time of \$186 a year to the \$5,000-a-year man, \$372 to the \$10,000-a-year man, and \$1,860 a year to the \$50,000-a-year man. It is economy to hire assistants to relieve such men of detail.—The World's Work.

PROSPECTS OF INDUSTRIAL DEVELOPMENT IN SOUTH AFRICA.

AT the present time the two principal factors in the economic development in South Africa are Farming and Mining. In the former I include fruit and vine-growing, also the sugar and tea industries in Natal. So far as the value of production is concerned, mining, though the more recent, dating only from 1870, has become by far the more important of the two. South Africa is now the largest producer of gold of any country in the world; the same is also true as regards diamonds, and we are putting out copper and coal in large quantities, and a small quantity of silver. Though much the older industry, agricultural production has not by any means kept pace with the mining development and the increase of the population. This, I think, is proved by the fact that though British South Africa, according to the last census, only carries seven persons, both white and coloured, to the square mile, we do not produce sufficient of any of the principal necessities of life to feed the existing population. This, to my mind, is an extremely unsatisfactory state of affairs, though as to the best methods of remedying it, opinions, I need hardly say, differ considerably. But my object this evening is not to enquire into the farming and mining industries of South Africa, except in so far as they bear upon the subject under discussion, but rather into the manufacturing industry and the prospect of its development.

For the purpose of clearness I shall divide manufacturing industries into two classes. There is first that class of manufacturing which simply converts the produce of the soil or the mines into a semi-manufactured article, which usually constitutes the raw material for more skilled forms of industry, as, *e.g.*, the smelting of ore and the tanning of hides and skins. In the same class I also include those processes closely connected with agriculture, such as butter and cheese making, jam-making, etc. There are secondly the more highly developed forms of industry, requiring, mostly skilled labour in their working, such as, *e.g.*, the manufacturing of boots and shoes, furniture, textile fabrics, machinery, etc. These two classes of manufacturing

are frequently, though not always, carried on together in the same country, but, as I shall endeavour to shew in the course of this paper, there is in this country a vast difference in the conditions affecting their respective development. This subject of industrial development has been much discussed during the last eighteen months or two years, owing chiefly to the existing depression, from which local industries have suffered in common with trade generally, and urgent appeals are being made to the Government for State assistance, either in the shape of largely-increased protection through higher duties on imported articles, or by reducing or abolishing the duties on raw materials. It is claimed that a large industrial population is of enormous and vital benefit to the country, and that money would be circulated in the form of wages, and a ready market provided for the farmers' produce.

For the successful growth of manufacturing in any country of both the classes I have indicated, two requisites are required, viz.: (1) An ample supply of raw material. (2) A large market for their productions. Now, the principal products of South Africa are gold, diamonds, copper, coal, wool, mohair, ostrich feathers, hides and skins, grain, tobacco, fruit, and in Natal tea and sugar. Some silver is produced in the Transvaal. Large beds of iron ore also exist in the Transvaal and Orange River Colony; lead is being worked in the Zeerust district, and discoveries of tin are also reported both beyond the Vaal and in this Colony. A splendid list, you will admit, as far as minerals are concerned, in fact from that point of view not many, if any, countries in the world are richer, but as regards the products of the soil, both in quantity and also in variety, South Africa is a poor country. The supply of timber, for instance, is very small; of wheat we do not produce sufficient to supply the flour mills already in existence, and, owing to climatic conditions, are never likely to do so. Of wool, though the supply is large, there is practically only one variety. Ostrich feathers we eliminate altogether as being not much used for industrial purposes. It will thus be seen that outside of its minerals South Africa, notwithstanding its enormous extent, is not rich in raw materials, the supply being confined to wool, mohair, hides and skins, fruit, tobacco and sugar.

Now, in dealing with the prospects of industrial development, I shall take first that class of manufacturing industry

requiring most skilled labour. In addition to the essentials I have already mentioned, viz., an ample supply of raw materials and a large market, for these industries a good supply of efficient labour, and in most cases also cheap motive power, are necessary. I shall put as the most important of these requirements a good supply of efficient labour. Now, though in South Africa we have a certain amount of skilled labour, probably in some branches rather more than we actually require at the present moment owing to the depression, still I think it would be admitted that for any large industrial developments such supply would be altogether too small. In fact, in South Africa for any large supply of labour we are practically dependent on the natives. As regards industrial employment, the native is too inefficient and unstable to be employed in industries requiring trained skill, and it will take him some generations at least to acquire that amenableness to discipline necessary in large manufacturing populations. In fact I doubt if any African natives have an aptitude for factory work. It is very significant that the labour in the factories of the Southern States of America is almost wholly white, the negro population forming but an infinitesimal fraction of it. Their omission from the labour of the cotton mills is attributed to a number of causes, to the inadaptability of the negro to the long hours and the sustained labour of the factory system, to the fact that inasmuch as it is often difficult to employ the two classes of labour together, and as white labour by reason of its teachableness, endurance, and skill is the more valuable of the two, preference is naturally given to the stronger races. Owing, therefore, to the fact that such skilled labour as we possess or even might import would be more highly paid than in Europe, and the natives being too unreliable to become skilled workmen, we may draw the conclusion that manufactures requiring skilled labour, even were an adequate supply of raw material available, could not compete with the manufactures of Europe outside our own local market; in other words, we could never hope to do an export trade in them.

That means that the markets for such industries would be confined to South Africa. Now, the South African market is after all a small one; it has always appeared to me that few people, at any rate outside this country, are aware of the fact that our total white population is only a little over a million,

not so large as several of the large cities of Europe and America, and our coloured population is a little over five millions. Further, and this is one of the most important circumstances regarding the industrial development of this country, it is never likely, if we may judge by the past, to carry a big white population, to be compared for instance with that of Canada or even Australia, not to mention the United States.

It is interesting to note the extremely slow growth of the white population in this country. South Africa was settled in 1652, or 250 years ago, very shortly after the first settlements were made in what are the present United States of America, *e.g.*, the Pilgrim Fathers landed there in 1620, only 32 years before this colony was founded, yet since that time the former has grown to a nation of some 70,000,000 of white people, while we in South Africa have only just attained to a population of a little over one million whites. Now, what is the reason of this very great difference in the growth of the respective countries? How is it that, founded much about the same time, the white population of one has increased to seventy times that of the other? To my mind the reasons for this great difference of growth are two; first, the very great difference in the agricultural resources of the country, and, secondly, the presence here of a vigorous native race.

As regards the first cause, more than half the country, in fact, all that part stretching from the first coast range of mountains right down to the Zambesi, is too arid for tillage and suitable only for pasture, except one or two specially favoured parts like Basutoland and the conquered territory in the O.R.C. Now, pastoral farming does not imply a large population; in most districts a comparatively wide area of ground is required to feed a moderate herd or flock, because the pasture is thin and droughts frequent; thus the number of persons for whom the care of cattle or sheep in any great area supplies occupation is a mere trifle compared with the number which would be needed to cultivate the same area. Further, on a grazing farm the proportionate number of white men to black is small, practically no skilled labour being required.

On the other hand, those parts of the country best suited for agriculture lie beyond the south-west, south, and south-east coast, and of these that part beyond the Kei is mostly occupied by the Kaffirs. Owing also to the fact that most of the best

land is already occupied, and consequently no South African Government being in a position to offer farms on such easy terms as Canada or New Zealand, there is no likelihood of any agricultural immigration in the future.

As regards the second cause, the white race will not emigrate in large numbers to countries where those who are unskilled labourers have to compete with coloured natives, and in this country there is also a prejudice against their employment in such labour. The native is, of course, accustomed to a much lower standard of living than the white man, and can live on a wage on which a white man would starve. Consequently, unless the white man is a skilled workman, he must be prepared to come down to the standard of living of the native or be undersold in the labour market. As a matter of fact, the principal immigration in normal times consists of the trading classes, including clerks, professional men and skilled artisans, and at Cape Ports it has only averaged 10,850 per annum, after deducting departures, during the last fourteen years,—years which have seen the largest influx of population of any in its whole history,—not as many immigrants as have entered the United States every week during the last two years.

It may be contended that the enormous development of the mining industry and the industries allied to it may eventually bring in a large white population. Unfortunately, from a white population point of view, these are the very industries in which native labour can be most profitably utilized; they do not require very much skilled labour in proportion to output, the physical strength which the Kaffirs possess being the principal requisite. Take, for instance, the gold industry in the Transvaal; for an output of gold last month at the rate of over £20,000,000 per annum, only some 16,000 white men were employed in connection with the mines, and this includes the men working on the surface, such as engine-drivers and men working in the batteries. In the best days of gold mining in Victoria, for an output valued at £6,000,000 per annum, no less than 80,000 white miners found work. Or, take the example of Rhodesia, gold is now being put out in that country, taking last month as a basis, at the rate of something like 1½ million pounds in value per year, besides respectable quantities of silver and coal, and yet the total white population in that country does not exceed 15,000. Further, natives are not

large consumers of manufactured goods; taking the averages throughout South Africa, their requirements in that line do not exceed at the present twenty shillings per head per annum.

Now, I think I am justified in drawing the conclusion that not only is that a comparatively small market for manufactured goods, but it is likely to remain so for a long time to come. As I have already said, to develop an industry on an important scale, a large market for its product is absolutely essential, the larger the market the bigger the output, and consequent minimum cost of production. It also gives opportunity for specialization, one manufacturer devoting himself to one branch, another to some other branch, by that means affording a large variety of production, while still further tending to reduce the cost.

In reply, however, to my contention that this is a small market, you may point to instances to where apparently, judging by the value, large quantities of manufactured goods are consumed in this country. Take, for example, boots and shoes, of which the value at Cape Ports last year amounted to £691,000, or woollen manufactures of which the value was £292,000; but if you go into the matter, for instance, of the boots and shoes, you will find that the importation consists of an enormous variety of different kinds supplied by scores of manufacturers, each making generally a specialty of some branch and making not only for this market but for the Home market with its 42 millions of population, and for others in different parts of the world, and to make up this variety, raw materials, imported from many different countries, either in the shape of hides and skins, or tanned leather, are utilized.

Now, a manufacturer of boots in this country, if he is confined to the raw material produced in South Africa, can only produce a very limited assortment, and that of the rougher kind, and the market being as I have shewn small, he will very soon find it glutted. Or, take the case of woollen manufactures, it is frequently said that we have wool on the spot. Why cannot it be manufactured here instead of sending it to Europe and getting it back in the manufactured article. As a matter of fact, acting I suppose on this idea, a woollen factory was started at Grahamstown some years ago, and a blanket factory at Ceres Road. The woollen factory has long since closed down, the blanket factory is still carried on in a small way, employing

about 20 hands. But the importation of the woollen goods into South Africa is also made up of many different kinds, and the industry itself is highly specialized, one class of goods being manufactured in Scotland, others in Yorkshire and elsewhere, this being only one of the many markets supplied. Further, anyone acquainted with the manufacture of woollens knows that different varieties of wool are frequently mixed together to produce different classes and qualities of the manufactured article, the cheaper wools of South America or India being frequently mixed with the finer wools of Australia and the Cape. In this country practically only one kind of wool is produced, viz.: merino, consequently the variety of goods produced would be extremely limited. It is the same with mohair; this material is made up into an immense number of articles, dress goods, braids, plush and the like, and is also usually combined in its manufacture with some other material, such as cotton. It will thus be seen that one of the characteristics of skilled manufacturing production at the present day is variety, and this can only be attained when there is a large choice of raw materials and there are large markets to supply, neither of which, as I think I have shewn, exists in South Africa.

Of course it may be contended that if we have not a sufficient supply of raw materials in this country we can import them, and in support of this proposal the case of Great Britain is pointed to, where the raw materials for many of her principal manufacturing industries are brought from other countries. That is quite correct in the case of Great Britain, but on the other hand, she has many compensating advantages which we do not possess here. In the first place, being such a universal market for the products of all parts of the world, and taking practically unlimited quantities, she gets not only the widest possible selection of raw materials, but also obtains them at the lowest cost. Secondly, she has cheap motive power and an ample supply of coal, situated close to the principal manufacturing centres. Thirdly, she has comparatively cheap and highly efficient labour; and finally, a world wide market, enabling her to turn out her manufactured products in enormous quantities.

On the other hand, take the example of the United States of America, a country which has also developed its manufacturing industries to a very large extent. If looked into, you will find that one of the reasons of her success in that direction

has been that she has an ample supply of raw materials in the country itself. In every one of the most successful industries such as iron and steel (including hardware and agricultural implements) manufactures of wood, carriages, etc., they have the raw material on the spot as well as an ample supply of cheap coal and water power. Added to that she has an enormous population now amounting to eighty millions, which gives her manufacturers a splendid market at their doors.

To import raw material for the purpose of manufacturing cannot assist in developing the natural resources of a new country. In fact the only benefit which it is claimed they render is that the workpeople engaged in such industries afford a market for its food products, a curious argument to use in a country like this which cannot feed its existing population, in fact, which does not produce sufficient of almost any one article of food. Take, for instance, the candle industry. I see it was stated in the evidence before the Select Committee on Colonial Industries, by one of the principal local manufacturers of candles, that he only uses 10 per cent. of colonial tallow, and this so far as I can learn is about the only part which the produce of the country contributes to the manufacture of candles, and the total number of persons employed in it and the food for whom has, as I have said, in large part also to be imported, was, according to the census, 117. Now, how much does this industry contribute to the development and progress of this country to justify the demand that every user of candles in South Africa should have to contribute to its maintenance by increased taxation? Even in the furniture industry, it appears from the evidence given before the same Committee that only 15 to 20 per cent. of Colonial wood is used, the balance being imported wood.

Now, it appears to me that under the circumstances, as they exist here, with a short supply of efficient labour, with a limited market, and having to import not only the greater part of the raw materials, but also the food for the people employed in working them, it is impossible to be able to build up large industries, which can ever be in a position to send their produce outside South Africa. To attempt to do so by heavy protective duties would be futile, and I believe against the real interest of the country. It is absurd to think that such duties will stop importation, or I will go further and say in the great majority

of articles even seriously restrict it, unless exceptionally heavy, because, as I have shewn, one of the chief characteristics of demand by consumers is for variety, and it will be impossible with the limited facilities existing here for the local manufacturers to offer such variety, especially in the more skilled lines of production. In support of this let me point out that even during the time when heavy duties on boots and shoes were in existence the importation of these articles was more in 1888 than in 1883 before the heavy duties were levied, and this in spite of the fact that the total importation of goods was less in 1888 than in 1883. It was the same with carts and vehicles; in 1885, the year after the duty of 20 per cent. came into force, the imports were only £2,516; in 1891, notwithstanding the duty, they had grown to £18,900, and in 1896 to £75,000. Consequently the principal effect of heavy duties would be to increase the cost of the imported article, and thereby the cost of living.

Further, such duties would constitute a tax on industries which have to export their products, such as wool, mohair, ostrich feathers, and mining, in fact a tax on the vast majority of the people for the benefit of the few. Taking the census report, we find that the total number of whites, both male and female, employed in the Cape Colony in what are usually called local industries, such as flour mills, breweries, soap and candle works, builders and contractors, joiners and carpenters, cart and waggon works, harnessmakers, printers, tailors and dress-makers, boot and shoe makers, plumbers, brick, tile and pottery works, manufacturing chemists, dynamite factory, cold storage works, ice factories, bakers, etc., etc., is 15,629 out of a total white population of 580,000, and of coloured 14,600, out of a total population of 1,800,000, and of these so employed a large number are in industries which no duties can affect, such as ice factories, builders and contractors, carpenters, painters, electric lighting and gas works, blacksmiths, etc. The only result of such a policy is rather to impoverish the people than to advance its wealth or prosperity.

Let me point to another result of such a policy of forcing colonial industry by means of Protection, as particularly exemplified in the case of Victoria, and that is to attract population from the land, where it could be most usefully employed, to the large centres of population. At the date of the census of

1891, after 25 years of State aid in the nursing of the manufacturing, 43 per cent. of the entire population of Victoria had gravitated into Melbourne and its suburbs. In fact, that Colony is about the most instructive example we can find of the results of endeavouring to promote industrial development by State aid, a policy now being strongly advocated in South Africa. To shew these results I will quote a couple of paragraphs from *Turner's History of the Colony of Victoria*:—

“In the beginning of 1865 the colony was in a thoroughly sound condition, custom dues were collected upon only about one dozen articles, all of them of the nature used for revenue purposes the world over, wages were, on the average, quite double what they would have been earned by the same class in England, while, with the exception of house rent, cost of living was very considerably less, trade was active, employment was abundant, and the community, as a whole, was basking in prosperity.

“Less than 30 years later the same community was in the depths of despondency, losing the cream of its population, staggering under an unendurable burden of debt and greatly enhanced cost of living. Wages, after a few years of artificial inflation, had fallen to such a level that the leader of the labour party in Parliament had told the House that the workers in Victoria had never been in such a deplorable condition as at present, and the same authority asserted that in a large number of Victorian industries the hands were worse off than the London dock labourers. Processions of the unemployed deranged the traffic of the streets, their orators denounced the Government as the cause of their distress, and demanded that the Government provide the remedy. Many of the more energetic, whom Victoria could ill spare, had been lured away by the attractions of Western Australia. The less enterprising contented themselves with petitioning Parliament to bear the cost of fitting out and maintaining prospecting parties to search for gold, which undoubtedly existed in scores of untrodden gullies within their own border.”

If such are the results of a policy of State aid to industries in Victoria, where they have at least one advantage over South Africa in being able to produce sufficient food for their population, one is safe, I think, in concluding that the results would be even more disastrous here.

I now turn to that class of industry which I mentioned at the beginning of this paper, viz., that branch which consists principally in converting the products of the soil or mines into a semi-manufacturing article, as, for instance, the smelting of copper or iron ore, and the processes most closely connected with agriculture, such as jam making, butter and cheese making, etc. It is there where, I venture to think, lies the future of industrial development in South Africa.

For those industries in connection with minerals there is an ample supply of raw material; comparatively little skilled labour is required, there is an ample supply of coal, and there is the world for a market; in fact this form of industrial development has already been started here in connection with gold mining. I need hardly tell you that the operation of getting the gold from the ore and smelting it ready for export is in principle, if not in actual working, just as distinct an operation from mining as milling is from wheat growing, comprising as it does milling, concentrating cyaniding, and smelting. As to the ultimate development of this industry, it would be absurd on my part to take your time in discussing it; that has already been done by many who are much more conversant with it than I am. Suffice it to say, that taking the value of the gold produced during the last two months as a basis, the production is now at the rate of £20,000,000 per annum, and a production of 40 or 50 millions per annum is looked forward to in the not distant future.

Another place in which this class of industrial work has recently been started is Namaqualand. Up to quite recently the copper ore was shipped to Swansea in South Wales for smelting there. That could only be done as the ore was rich, averaging something like 20 per cent. of copper to the ton; any ore mined much inferior to this quality did not pay to ship and simply lay in stacks on the ground. Now, however, the Cape Copper Company have put up smelting works, and are smelting the ore on the spot and exporting the product. The consequence of this is that it now pays to mine a much lower grade of ore, in fact down to 5 per cent. The Namaqua Copper Company is also putting up a smelting plant with the same object. The principal drawbacks at the present time to the growth of this industry are the absence of fuel, all the coke for smelting purposes having to be imported, and the high

charges for landing and railway carriage. With the reduction of these charges it would pay to extract ore of even lower quality than 5 per cent., and thereby give a great impetus to the copper industry in that part of the country. Judging from the numerous occurrences of copper ore in the Transvaal, and from the extent of the old workings there, there is every possibility of copper being discovered in such quantities as to warrant the erection of smelting works in that colony. In that case they would have one great advantage over those in Namaqualand in the ample supply of fuel on the spot.

South Africa is also bountifully supplied with iron ore. When the mineral resources of the Orange Free State were investigated about twenty years ago, iron was discovered in large quantities near the present town of Vredefort. Since then the Transvaal has been found to contain an immense quantity of the same metal. Beds of iron ore lay in close proximity to the great coal fields of the Transvaal, and, as limestone can also be obtained in almost any part of the country, all the essential elements for the establishment of smelting works are available. Hitherto the production of good coke has not been successful, owing as much to the want of practical knowledge as to the method of treating coal such as that of this country, as to the quality of the coal itself. This difficulty will doubtless be overcome, and then the erection of blast furnaces will ultimately follow. Other minerals, such as silver, lead and tin, are also known to exist in quantity, and no doubt will also be worked in time. Unfortunately, as I have said before, from the point of view of those who desire to see a large white population in this country, these are not industries requiring a large amount of skilled labour in proportion to the output. All the rough work in connection with them can be done by natives under the supervision of the white men. In fact, this exclusive use of the native or Asiatic for unskilled work in the mines has already had the effect of riveting more tightly on South Africa that dependence on native labour which has been in the past, and is now, the chief obstacle to its development in every direction except perhaps mining.

For another branch of manufacturing industry which may ultimately be developed on a large scale, take the preserving and bottling of fruit. As far as regards the supply of raw material, we have in the western province one of the best fruit-growing

countries in the world, which could easily produce far more fruit than the population can consume. When fruit-growing has arrived at that stage, as in the near future it doubtless will, it will have to look abroad for markets, and one form in which it will be exported will be in the manufactured state of jam. As shewing the extent to which it is possible for this industry to grow, I may mention that in 1900 the value of the production of dried and canned fruits of the State of California was over £3,000,000, and this is exclusive of a production of over 5½ millions sterling of fresh fruit. I see no reason, if the labour difficulty can be overcome, why, with enterprise, a large export industry should not be built up as has been done in California. Another raw material which South Africa could produce in abundance is tobacco, and it is quite possible that an important industry may ultimately develop out of it.

Let me now endeavour to sum up the facts of the case as regards the prospects of industrial development in South Africa and state the conclusions to which I think they point. I have endeavoured to shew that the chief factor in South Africa in regard to its economic development is the native, and on him we have mostly to rely for our labour supply, but, owing to his unstableness and aversion to steady, continuous labour, he is not adapted to factory work or skilled trades on a large scale. Further, that on account of its native white population and the small consumption by the natives of manufactured goods, South Africa is a small market, that as compared with Canada or even Australia the whole population is likely to remain small, if we may judge by the history of the past, its comparatively limited agricultural possibilities, and the fact that there is no room for the unskilled white labourer; thirdly, that, outside minerals, its supply and variety of raw material is not large, consequently the prospects of a development on an important scale of the more advanced classes of industries, *i.e.*, those requiring most skilled labour, are very limited. Such industries will doubtless continue to exist on a small scale in all the larger centres of the population as in the past, favoured in some cases by local prejudice for the colonial made article, in others by their better adaption for local requirement, in others again by distance from Europe, and the time required for importation, and finally in some cases by the relatively heavy cost of importing.

On the other hand, with minerals South Africa is richly endowed, and there is no doubt a bright future for mining and for all industries connected with it for which native labour can be advantageously utilized. Further, parts of South Africa being well adapted for fruit growing, there are great possibilities before industries for which fruit forms the principal raw material. And finally, South Africa being essentially a pastoral country it should be possible, with increased care being given by farmers to breeding and management of cattle, and some enterprise, to develop a large dairy industry as has been done in Australia and New Zealand. As to the ultimate future of this country when the mines are worked out, that is, perhaps, too long to look forward to, as they will at any rate last this generation; but this I may say, that no country can be permanently built up on mining; mines are useful in bringing population and stimulating the progress of the country, but unless that population spreads on the land, the country must relapse into much the same state as existed before the mining was developed. In support of this let me mention the example of two States in the American Union,—Nevada and California. Both started in the first instance by mining, but, owing largely to climatic conditions the former never developed much beyond that, with the result that as its mines became exhausted its population steadily decreased; in 1880 it was 62,000, in 1800 it had fallen to 45,700, and in 1890 to 42,300. On the other hand, in California the population first attracted by mining has taken to other industries, particularly fruit growing and farming, with the result that though mining still retains an important place amongst the industries of the State, the output of gold in 1899 being over £3,000,000 sterling, the output of the products of the soil was nine times that amount in value and the population has doubled itself since 1880.

In other words, the permanent future of this country will rest, not with the miner, nor with the industrialist, but with the man on the land, and it is to the promotion of industries connected directly or indirectly with the soil that the strenuous attention of its people should be given.

J. W. JAGGER.

PAPER CURRENCY HERESIES.

THERE is apparent need even at this day for teaching the A B C's of monetary education. Theories that one century's experience shows to be vain are revived in the next, sometimes to be quickly forgotten for a time, sometimes to cause statesmen grave trouble. In the seventeenth century there were men in high place who thought the King's image and superscription would make a penny's worth of brass of the same value as a shilling's worth of silver. In the nineteenth century there were men who rose to fame and political force by advocating the coinage of fifty cents' worth of silver into what they thought could be made to pass current on an equality with a hundred cent dollar. In the eighteenth century there were men who convinced themselves and convinced legislative bodies that paper currency could be put and kept in circulation with nothing behind it but the "credit of the country." In spite of the failures — complete, disastrous and repeated — of experiments based on these theories, there were men in the nineteenth century who took them up and by exploiting them again won the favour of great multitudes. They have successors even in this twentieth century. In the House of Commons of Canada, on May 19, 1905, during the discussion of a vote for the printing of Dominion Government notes, Mr. David Henderson, the member for Halton, questioned the need of holding a gold reserve against the issue of such paper currency. He did not see, he said, the necessity of the great Dominion of Canada being called upon to put-up dollar for dollar, to hold gold in its vaults to redeem its bills. To his mind, "the pledge of the Dominion of Canada is absolutely sufficient to warrant the fact that the money is perfectly good and that it can be accepted by all parties at all times without hesitation." Mr. Henderson thought further that the country could have some profit on this issue of currency, and was, he said, further inclined to think the gold reserve is "a relic of past days, simply something that the government has copied from governments that have gone

before." Concluding his remarks he again suggested the dispensing with this system of holding such a large amount of gold for the purpose of redeeming notes which "are sufficiently guaranteed by the credit of the Dominion of Canada."

The effective answer to this sort of theorising is to be found in the cold facts of history. There is nothing to be said new in favour of the claim that the credit of a country or of a man can unsupported keep promises to pay at par. That end can only be attained by always having at hand the hard cash to redeem the notes when they are presented. The lessons to this effect are written large in the pages of political as well as of economic history. There have been three historic issues of so-called fiat money, or circulation based on something else than an actual reserve of gold or silver. One was in Europe. Two were in America. The French assignats, the Continental notes of the revolted colonies and the "greenbacks" of the United States in their record all point the same lesson.

The assignats of France were the device of a revolutionary government, which found itself in need of more money than it could raise by taxation. They were the first great issues of paper money. Their creation and emission was strongly objected to by men of the National Assembly who understood the laws of economics and of money. They were not exactly fiat money. They had beside the credit of France to support them the lands of the church, the nobles and the *émigrés* which the government had confiscated and held for sale. In the end, however, the presumed value of the lands had nothing to do with the issues of assignats. The first printing was of 400,000,000 sols or francs, in February, 1790. The notes bore interest. Subsequent issues did not. Though the conservative element in the National Assembly objected to their being made, the only concession it could obtain was that notes once redeemed should not be re-issued. This restriction, however, in operation, amounted to nothing. In September a decree for a further issue of eight hundred million francs was made. In July, 1791, 600,000,000 francs more was ordered to be issued. What was redeemed did not appreciably affect the volume the printing presses were turning out. Allison estimates that at one time assignats of a face value equal to £350,000,000 sterling were in circulation. Gresham's law began to operate. The cheap money drove out the good. Specie disappeared from circula-

tion. Industries collapsed. All over France workmen were thrown out of employment. The situation is thus described by one writer: "No one knew whether a piece of paper money representing 100 francs would a month later have a purchasing power of 100 francs, or 90 francs, or 80 or 60. The result was that capitalists declined to embark their means in business. Enterprise received a mortal blow. Demand for labor was still further diminished. The business of France dwindled into a mere living from hand to mouth." According to a table prepared by M. Bresson on April 1, 1795, 24 livres in coin were worth in assignats 238 livres; on May 1, 299 livres; on June 1, 439 livres; on July 1, 808 livres; on August 1, 807 livres; on September 1, 1,100 livres; on October 1, 1,205 livres; on November 1, 2,588 livres; on December 1, 3,575 livres; on January 1, 1796, 4,658 livres; and on February 1, 5,337 livres. At the last "an assignat professing to be worth 100 francs was commonly exchanged for 5 sous 6 deniers; in other words, a paper note professing to be worth £4 sterling passed current for less than three pence in money." Various devices were resorted to in the hope of stopping the depreciation and its effect on the prices of commodities. Maximum prices were fixed by law; but the law was disregarded, and had to be repealed. In May, 1795, according to Gardiner's "French Revolution," a pound of bread cost 8 shillings, of rice 13 shillings, of sugar 17 shillings. Other articles were proportionately dear. In Paris, the people were kept alive by the distribution of food at fixed rates. Then bread riots began and disorders were reported all over the country. De Bonnechose says, "The excessive degree of discredit to which paper money had fallen had destroyed all confidence and all legitimate commerce." Behind the assignats all the time, however, was the credit of the country, which was at the time under a government that had crushed rebellion at home, and abroad had won success over foreign armies. In desperation the government in 1796 repudiated the great mass of the obligations it had issued by ordering the issue of territorial "mandates" for which the assignats were exchangeable at a ratio of 30 to 1. These mandates were made directly exchangeable for public land at the will of the holder. Their history was a repetition to an extent of that of the assignats. They were for a time rated as being worth in coin 80 per cent. of their face value. They declined under the weight of over-

issue till they were worth only a seventieth of their face value. They were got rid of in the end by the government accepting them in payment for taxes. The paper currency experiment represented by these assignat-mandate issues came to an end in 1797. France never repeated it. Her public men were wiser than those of some other countries.

The Continental currency had a history like that of France's assignats. The idea that a statute could keep paper currency in circulation on a par with gold early took hold of the legislators of the American colonies of Great Britain. Before the revolution there were many issues of non-interest bearing notes by individual colonies and many expedients were resorted to to compel their acceptance by the public. Pennsylvania enacted penalties against those who made a difference in the price of their goods when they sold them for colony paper and when they sold them for gold and silver, and created by law a fictitious value for gold and silver coin in an effort to keep some of it in circulation in company with its paper issues. Rhode Island went further. Certain of its issues bore the mandate: "This three-shilling bill due from ye colony of Rhode Island, etc., to the possessor shall be equal to money." It was not. Mr. Adam Smith mentions that, notwithstanding this and like regulations, by the course of exchange with Great Britain a hundred pounds sterling was occasionally considered equivalent in some of the colonies to a hundred and thirty pounds, and in others to so great a sum as eleven hundred pounds currency. This difference, he adds, arose from the difference in the quantity of paper emitted in the different colonies and in the distance and probability of the term of its final discharge and redemption. To digress from money to politics for a moment, it was one of the complaints of the colonies, when the time for justifying their revolt came, that an Act of Parliament declared that none of their paper currency emitted in time coming should be legal tender—that is, should be compulsorily receivable in payment of a debt. The situation became worse after the revolution began. The individual colonies issued notes to meet their military expenses. The Continental Congress, the representative body of all the colonies, did the same. These notes, it was declared, had "the faith of the continent" behind them. It was poor security. The first issue of 1775 was of 300,000 Spanish dollars. These notes were made redeemable in three

years. The enthusiasm of the revolutionists ensured their success. Further issues followed, though, as was the case in France, wiser heads advised against the action. The stuff began to decline. Laws were passed to prevent speculation in the notes. Statutes, however, can only override economic laws for a short time and to a limited extent. By the summer of 1780, it is declared in Fiske's History of the American Revolution, "this wretched continental currency fell into contempt. As Washington said, it took a wagon load of money to buy a wagon load of provisions. At the end of 1778 the paper dollar was worth sixteen cents in the northern states and twelve cents in the South. Early in 1780 its value had fallen to two cents, and before the end of the year it took ten paper dollars to make a cent. In October Indian corn sold wholesale in Boston for \$150 a bushel; butter was \$12 a pound; tea \$90, sugar \$10, beef \$8, coffee \$12, and a barrel of flour cost \$1,575. Samuel Adams paid \$2,000 for a hat and a suit of clothes." Mr. Fiske adds that the money soon ceased to circulate; debts could not be collected and there was a general prostration of credit. The paper currency, backed by the credit of the continent, issued by a government which had established its power to rule, was never redeemed. Its inglorious career and disastrous end is commemorated in a phrase expressive of utter worthlessness—"not worth a Continental."

The other great lesson on the incapacity of national credit to keep paper currency on a par with gold is found in the history of the "greenback" issues of the United States during the war of secession, from 1861 to 1865. Then, as ninety years before, the government had to provide more money than it could raise by taxation or secure by the sale of interest-bearing bonds. Mr. Chase, the secretary of the treasury in 1861, when it was seen that war was inevitable, advised that \$80,000,000 should be provided by the imposition of new taxes, \$240,000,000 by loans, and \$50,000,000 by the issue of treasury notes, redeemable on demand. He pointed out that "the greatest care will be requisite to prevent the degradation of such issues into an irredeemable paper currency, than which no more certainly fatal expedient for impoverishing the masses and discrediting the government of any country can well be devised." Congress acted on Mr. Chase's recommendation to a certain extent and authorised the issue in exchange for coin or pay for salaries

or other dues from the United States, of not over \$50,000,000 of treasury notes of the United States, bearing no interest, but payable on demand at Philadelphia, New York or Boston. Neither Congress nor the Treasury, however, was able to prevent the degradation of such issues into an irredeemable paper currency. The war lasted longer than the expected ninety days. When Congress next assembled there was need of more money to carry on the struggle. One of the proposals was that there should be another issue of United States notes, and that all other paper issues should be taxed out of existence. While this and other schemes were being considered the Trent affair took place, and in the alarm it created the banks in New York suspended specie payments. Other banks throughout the country were driven to a like course, and the national treasury had to make the same confession of weakness. After this the government and Congress did what they could, not what they would. Issue after issue of greenbacks was made, without the pretence of having or of providing money to redeem them. Gresham's law came into operation. Coined money disappeared from general circulation. The silver was forced into Canada, where it came to be characterised as a nuisance. The gold went to Great Britain and France in payment for imports, to meet interest on debt obligations and through the operations of international exchange. The national government, which paid its own domestic obligations in paper it could not redeem, required customs dues to be paid in gold. Gold money, instead of being a medium for facilitating exchange, became an article of commerce, and was from time to time cornered or sought to be cornered by speculators, thus aggravating a bad situation. At one time the gold value of a dollar note of the United States was only 35 cents. For months it was about 45 cents. In 1865, when the war closed, there was outstanding \$427,768,000 of greenbacks, and \$26,057,000 of fractional notes for sums less than a dollar, issued, in part at least, to take the place of silver coin (then approximately worth its face value) which the paper issues had driven out. The war being ended and the credit of the United States Government re-established, Congress set itself to the task of putting its currency on a sound basis. The process took a full thirteen years. It was January 1, 1879, before the Treasurer of the United States was in a position to hand out a dollar in coin in redemption of the pledge of the

United States Government. All this time the greenback was a legal tender in payment of all debts of individuals, corporations, municipalities and states. All the time it had behind it the credit of one of the world's greatest and most progressive nations. It was the common currency of a growing domestic trade, and through use became so favoured by the public that gold has never recovered its old place as a medium for conducting minor everyday trade. It was only, however, when it had been made sure that for every dollar in greenbacks he held a man could get a dollar in coined money, recognized in international trade, that United States paper issues passed as of equal value with gold and the domestic commerce of the nation was relieved from the disturbing influence of a double money standard.

The lesson drawn from these three notable issues of paper currency based on something other than the intention and capacity of the issuing government to pay in redemption gold or silver money on demand, is the same as that drawn from other issues of like weakness, made either by governments, or by corporations, or by individuals. The promise to pay, printed or implied in connection with the issue of paper currency, must be kept or the stuff will lose its value. It is a lesson written so large that it is hard to understand how, from time to time, public men of more than average capacity can suggest that it should be disregarded.

SAMUEL L. KYDD.

COLONIAL NATIONALISM.

TO the student of history there is no novelty in the spectacle of progress from Colony to Nation; the novelty would be to find a colonial community in which was lacking the potentiality of such an evolution. There are few political forces which can withstand for long, none which can withstand indefinitely, the disintegrating effect of geographical separation. Separated from the elder community by leagues of sea or chains of mountains, differing in climate, physical features, and surroundings, at a different stage of development, and dealing with new problems, economic, social, and territorial, the new country more or less rapidly evolves a new and distinct national type, to which independence appeals as an essential factor in self-development. The motive of this book is to bring home to the English reader the nature and extent of the National movement in the Colonies, and to suggest the adaptation of Imperial policy to the new conditions prevailing throughout the Empire.

Accepting the growth of Colonial National sentiment as inevitable, it is 'unnecessary to seek any other ultimate origin of that sentiment than is given above, although it is no doubt true that the indifference displayed by England towards the Colonies during the greater part of the nineteenth century was an important proximate cause of its development. The real questions are: To what extent has the demand for independent National existence developed? and, What should be the attitude of England towards that demand?

An extraordinary amount of independence is already possessed by the great self-governing Colonies, as far as the management of their internal affairs is concerned. The main points of dependence are: *legal*, the right of appeal to the Privy Council; *economic*, the huge indebtedness to England and the extensive trade relationships; and *political*, the veto of the Imperial Parliament, the question of defence, the management of external relationships, and the sovereignty of the Crown. The evidence brought forward in Mr. Jebb's book goes far to shew that, at all events in Canada and Australasia, there is a

growing opposition to every one of the limitations, except perhaps the sovereignty of the crown.

As regards the right of appeal to the Privy Council of Britain, the effect of this is, of course, very considerable. By compelling the Colonial judges to pay attention to English precedents, a general conformity with English conceptions of jurisprudence is brought about. Considerable hostility to this right of appeal was shewn by the whole body of Australian statesmen at the time of the creation of the Commonwealth, and it would have been abolished altogether as regards Australia if the Imperial Government had not insisted upon its maintenance. In New Zealand, too, an unpopular decision of the Privy Council has given rise to a feeling of discontent with this aspect of the Imperial connection.

As regards the political ties, we are witnessing at present an important controversy between Britain and the older Colonies regarding the question of Colonial contributions to the navy; and here undoubtedly the trend of popular feeling in these colonies is in the direction of creating an independent navy, to act in alliance with the Imperial navy. Canada makes no contribution at all towards the maintenance of the Imperial navy. Australia's contribution is conditional upon certain warships being set aside for use only in Australian waters; the Cape and Natal are the only Colonies whose contribution to the maintenance of the British navy is given unconditionally. The Imperial Government approves of the method of contribution adopted by the South African Colonies, and strongly discountenances any attempt to establish semi-independent navies throughout the Empire. Yet this is exactly what is desired by probably the majority of responsible Australian and Canadian statesmen, and the difference of opinion has led, in the case of Canada, to an absolute refusal to make any contribution to the Imperial navy, and in the case of Australia to a compromise which is objectionable to both parties. The recent assertion by the Canadian Government of its right to the control of the Canadian militia, and its abrupt dismissal of the Imperial officer who protested against its interference with him in the exercise of his duties, will be remembered as another evidence of the movement towards greater political independence on the part of the Colonies. The demand for liberty in the conduct of international affairs has become of importance only in Canada,

where it is the general belief that Canadian interests have invariably been treated by Great Britain as "a fund from which she can make payments at her own discretion to purchase the goodwill of the United States." The recent Alaskan boundary dispute gave rise to an extraordinary amount of bitter feeling in Canada, and it is probable that in any future difficulty with the United States or other foreign power, Canada will insist upon receiving permission from England to deal directly and independently with the other party in the dispute.

The right of the Imperial Parliament to review colonial legislation creates a certain amount of friction every time that it is exercised, and its exercise is becoming more and more infrequent. The Colonies claim that Downing Street does not understand colonial conditions, and this claim is largely recognized in Great Britain, where, thanks to a growing interest in Imperial affairs, the murmurs of the Colonies against ill-informed interference are now fairly audible. And it is unlikely that the English Parliament would long decline to sanction any piece of colonial legislation which was backed by anything like a strong consensus of local opinion.

As regards economic relationship with Great Britain, the Colonies have long possessed the fullest freedom in all matters pertaining to taxation and tariffs; the economic dependence of the Colonies on England is therefore, a matter of no direct political significance, as far as England is concerned. But both in Canada and Australia the enormous debt owing by the Governments to English capitalists has become a matter of some concern, and various attempts are being made to reduce the outstanding indebtedness. As regards trade relationships, these are encouraged only so far as is consistent with economic self-dependence. The desire of the self-governing Colonies is for all-round agricultural, commercial, and industrial development, and their policy in this respect excludes England equally with other countries from competition with the colonial producer in colonial markets. The Colonies, however, are not slow to recognize the importance of the English market for colonial products, and they are eager to obtain a preference there in return for such tariff concessions as will, without prejudice to the home producer, put England at an advantage as compared with other countries. But it should be distinctly understood that there is in this no idea of abandonment of

economic independence of Great Britain. On the contrary, the whole intention of the Colonies is to treat with the Mother Country on the footing of an equal and independent State, in exactly the same way as they would treat with any foreign State for similar reciprocal facilities.

From this general review of the whole question of Imperial relationships it seems that Sir Wilfrid Laurier's ideal of the British Empire as "a galaxy of independent nations" may not be very wide of the mark. The sentiment of loyalty to the Crown is stronger to-day than it has ever been before, but alongside of this sentiment there is a marked advance in local patriotism, and it is in accordance with the teachings of history to anticipate that the National sentiment will ultimately prove stronger than the Imperial sentiment, should the two ever come into sharp conflict. And we therefore are strongly of opinion that the true Imperial policy is to recognize this growing Colonial National sentiment, and to admit it to be the dominant factor in the determination of Imperial policy. W. F.

VALUE OF CLEARING HOUSES.

A. M. Barrett, of the National Bank of Commerce, addressed New York Chapter, the American Institute of Bank Clerks, recently on the New York Clearing House. He said in part:

"Clearing houses are the channels through which the banking interests of the world facilitate the work of collecting the millions of checks, drafts and other negotiable instruments that form the greater part of our financial life. To London must be given the honour of originating the clearing house system. History records that in 1773 a few bankers met for the purpose of exchanging drafts, in a small way, but it was not until 1840 that any record of the transactions were kept which would be available for inspection. Forty-six members represented the London Clearing House at that time.

"An average estimate of the number of checks passed daily through the New York Clearing House is placed at about five hundred thousand. Considering the wonderful business growth of our country and the spreading over a large territory of the banks which at one time were located near a common center, it will be readily appreciated that the saving of time, labour and risk effected by the establishment of clearing houses is well nigh incalculable."

THE REPORT OF MR. CHAMBERLAIN'S TARIFF COMMISSION.

THE COMMISSION which is engaged in collecting information, with a view to framing proposals for a British tariff, in connection with the propaganda of the late Colonial Secretary, has published reports dealing with two of the principal industries of Great Britain, namely, the Iron and Steel trades, and the Cotton industry. The former report was issued in 1904, the latter in the spring of the current year. In the case of each of these great industries, it is easy to prove that the rate of progress, as measured by the amount of the output, has been much less rapid in recent years than it was a generation since. The world has needed vastly increased quantities of iron and steel, and of cotton goods, but it has not been necessary to procure them from Great Britain. The industrial development of other nations has proceeded far enough to render them in a considerable degree independent of British factories and workshops for these great staple products. In the United States and in Germany, in particular, the manufacture of iron and steel, following on the development of their coal resources, has progressed so rapidly that they have overtaken and passed Great Britain in the quantity of iron smelted, and have in no small degree, especially in the case of Germany, been able to compete in supplying iron and steel goods to the rest of the world.

The first report of the tariff commission, dealing with the iron and steel trades, presented a good deal of evidence tending to establish the necessity for tariff protection for British producers. The second report, in its first part, which relates to the cotton industry, though establishing without difficulty that the tariff policy of other countries has been a serious hindrance to the growth of British cotton manufacture, does not succeed in making out a satisfactory case for a British tariff on cottons as a means of remedying the slowness in the expansion of the industry. Even in the provisional scale of duties sketched at the conclusion of the report, no duty is proposed on yarns or twist or on grey goods, and, of course, none on raw cotton. On tissues other than grey, rates not exceeding ten per cent. *ad valorem* are suggested.

It appears from the evidence that the recent course of development has been in the direction of a greater proportion of finished goods being produced; that finer yarns than formerly are being spun; and that new branches of trade are being developed. These changes are largely due to the fact that other nations, under the stimulus of tariff protection or favourable natural conditions, have learned to produce for themselves those classes of goods in which trained skill and peculiar climatic conditions count for least. The market for staple lines of goods is not expanding, so far as British export is concerned. Manufacturers are being more and more compelled to turn their attention to fancy goods, a change which interferes with the practice of making for stock when current business is slack.

Complaint is made by witnesses before the Commission, and accepted, apparently, as justified by the drafters of the report, that the liability of the home market to invasion by the foreigner prevents British producers from taking advantage of the economies of large-scale production as fully as is desirable, and that foreign producers can compete on favourable terms because these economies are open to them. When we consider the fact that the goods manufactured for the British home market form less than one-fifth of the output of the industry, the proportion borne by imported cottons to this output will be seen to be small, and would still be small if foreign competition in the home market were much greater than it is. The degree of advantage to be secured from the larger scale of operations which a more rigid exclusion of such competition would render possible, does not impress the mind very seriously. If other countries are favoured in competition with Great Britain, by greater facilities for large-scale operations, the reason is not convincingly found in the fact that no British tariff excludes them from disposing of part of their output in the British Isles.

If the imposition of a small duty on finished goods, as suggested by the Commission, should succeed in inducing other countries to lower their tariffs, the enlarged market thus afforded would unquestionably be of advantage to the cotton trade of Great Britain. But some of the witnesses before the Commission seem to have entertained a reasonable scepticism on this point. They regard it as rather more probable that

those countries which have developed protective tariffs will not merely retain them, but may even raise the rates imposed. The exports of piece goods to the principal protected countries (Germany, Holland, Belgium, France, Italy, Austria and the United States) rose from an annual average of 304* million yards in 1892-96 to an annual average of 307 million yards in the succeeding five years. The average of 1902 and 1903 fell back to the figures of the early nineties. The total export of piece goods at each of these dates exceeded 5,000 million yards. The increasing difficulty imposed by the tariffs of these countries can, therefore, affect only a small part of the British cotton exports at most. In yarns the matter is more serious, for the reduction in the takings of this group is far more serious and they have been among the most important customers of British yarn exporters. In this department, however, a British tariff on piece goods seems even less likely to induce a removal or lowering of foreign rates of duty than in the case of finished goods. As the yarns that are now finding their way from England into foreign countries are finer than those formerly exported, the profitable employment for labour and machinery afforded by the foreign sales has not decreased in the same proportion as the quantities exported. The tables of the report are curiously arranged, from the point of view of mutual comparison, but reference to official returns permits us to supplement them so as to arrange the following:

Average of the Years.	EXPORTS OF YARN AND THREAD.		
	Weight Million Lbs.	Gross Value Million £.	Net Value Million £.
1886-1890	273	14.6	7.9
1891-1895	253	12.8	7.4
1896-1900	252	12.5	7.4
1901-1904	193	11.8	6.6

After deducting, therefore, the value of the cotton wool, the net return to British industry has decreased in the proportion of 273 to 228, while the weight of the export has diminished in the proportion of 273 to 193. The reduction of the importance of the export trade in yarn and thread is, therefore, exaggerated when we measure it by the weight of the exported

* These figures are as given in the Tariff Commission's report. They are in excess of those given in the Board of Trade returns.

goods, or the weight of raw material used. This latter is, however, relied on by some of the most important witnesses, bent on showing that the trade is in need of tariff assistance. The following table deals with the exports of piece goods, hosiery, lace, etc., adding separate figures for the amount and gross value of piece goods alone:

Average of the Years.	EXPORTS OF PIECE GOODS.		EXPORTS OF PIECE GOODS, HOSIERY, LACE, ETC.	
	Million Yards.	Gross Value Million £.	Gross Value Million £.	Net Value Million £.
1886-1890	4,984	52.0	56.9	33.8
1891-1895	4,957	49.1	53.6	32.9
1896-1900	5,139	49.6	54.7	34.2
1901-1904	5,361	57.8	66.7	37.8

This table again shows, though in a less direct and striking fashion, the divergence between the profitableness of the trade to the country and the amount of material used. The importance of the hosiery, lace, etc., has been very considerably greater since the turn of the century than in the later years of the nineteenth century. Yet these are the sections of the industry in which the deduction from gross value of the cost of raw material, in order to arrive at the net value, is the least in proportion to the value of the product.

The quantity of cotton used, and the relative proportions of the home and foreign trade in the years referred to in preceding tables are shown below.

Average of the Years.	Cotton Consumed.	Total Value of Product.		Home Trade.	
	All Kinds. Million lbs.	Gross Value Million £.	Net Value Million £.	Gross Value Million £.	Net Value Million £.
1886-1890	1,533	86.7	51.1	15.2	9.4
1891-1895	1,588	81.5	49.8	15.1	9.5
1895-1900	1,675	84.7	52.4	17.5	10.8
1901-1904	1,600	94.4	53.4	15.8	9.0

The fact that the latest of the four periods compared includes the short crop season 1903-4 in the United States must not be overlooked in drawing conclusions as to the recent tendency of the British cotton trade. That the volume of trade

is not advancing rapidly may be granted. That the tariffs of other countries are an important cause contributing to this result is hardly disputable. That British goods meet the competition of foreign cotton products, not merely in the countries of production, but in neutral markets all over the world, is an obvious fact. The value of cotton goods other than yarns, exported by the leading countries already named (p. 56) with Switzerland added, has increased from an average of £23,-860,000 in 1891-95 to an average of £30,040,000 in 1896-1900 and further to £39,641,000 in the year 1902. But how an import duty on cottons imported into Great Britain is to alter these facts, so as to restore to that country its former share of the cotton manufacture of the world, or to check its relative decline, is far from clear. Yet this is the proposal which seems to occupy the attention of the drafters of the report of the Tariff Commission before all else.

A point of particular interest in Canada will be the views of witnesses and commissioners as to the future of the colonial branch of the British cotton trade. Rather over one-half of the piece goods exported in recent years have been taken by British Possessions, if we take yardage as the test. Judged by values, the exports to British Possessions have been somewhat less than one-half of the piece goods exported, averaging about 47 per cent. of the total. But four-fifths of the amount sent to British Possessions is sent to the East Indies. The effect of any policy aimed at preserving and expanding the market for British cottons within the Empire cannot be judged rightly if we make the usual association of the self-governing colonies and the Empire, for these are very far from being the most important part of the inter-imperial market for cotton goods. The effect of any proposed policy on India is, therefore, for the cotton trade, of predominant importance.

The report states that:—

“Witnesses are agreed that in regard to British Colonies and Possessions generally, the maintenance of British trade is absolutely essential to the cotton industry, and that under a satisfactory Preference system this trade is capable of great expansion.” (§72).

But what is a “satisfactory” preference system? So far as can be gathered, it is to secure for British manufacturers the Colonial market in some such way as the home market

would be secured by a sufficient tariff. It is not necessary to insist that an influential body of opinion in the self-governing colonies regards quite differently the idea of a "satisfactory" preference. In their view the preference should secure the colonial market as against producers in foreign countries, but do little or nothing towards favouring British goods as against those made in the colony itself.

As the entire British Empire, outside of India, at present takes only about ten per cent. of the piece goods exported by Great Britain, while foreign countries take nearly fifty per cent., there is reason for very careful scrutiny of a plan which might lead to further difficulty in regard to the fifty per cent., and promises to add to the ten per cent., not the entire growth of the consumption of the markets concerned, but a fraction of that growth, so much of it as cannot be taken care of by local manufacture.

It is pointed out that the effect of foreign import duties on British cotton goods is much more important than appears from the rates of *ad valorem* charges. In spinning, figures are quoted showing that from fifty to seventy per cent. of the value of the product is represented by the raw material. A duty of twenty per cent. of the value of the product presents an obstacle measured by the proportion of the duty to the manufacturing costs, or, in the cases in question, from forty to sixty-seven per cent. on the amount available for the remuneration of the labour and capital employed in spinning. An apparently moderate duty may thus be quite prohibitive. The approximate rates of duty levied on British exports by various countries, expressed as percentages of the values of the goods are (§562):—

IMPORTING COUNTRY.	PIECE GOODS Per Cent.	COTTON THREAD Per Cent.	YARNS Per Cent.
Australian Commonwealth	5	Free	Free
New Zealand	Free to 15	Free	20
S. African Customs Convention	7½	7½	7½
Canada	16 to 23	10	16
Belgium	22 to 28	8	6 to 7
Germany	38 to 49	14	9 to 15
Italy	29 to 52	18	14 to 19
France	36 to 51	197	14 to 20
Austria & Hungary ..	47 to 65	14	14 to 17
United States	68 to 88	375	45 to 48
Russia	169 to 207	39	70 to 76

The rates charged in British Colonies are thus notably lower than those charged in the more advanced industrial states of Europe, or in the United States. As was seen, however, it is not the group of countries here named which takes the larger part of the British exports. The tariff rates, a change in which might affect the bulk of British cotton exports, are not shown here, and do not appear in the Commission's report. Some few of the countries concerned are covered by a table quoted from the second Fiscal Blue Book, and from it may be seen the fact that the duties imposed in some foreign countries are lower than those in force in parts of the Empire itself. Thus, the following rates are given (§1151):—

IMPORTING COUNTRY.	GREY CLOTH Per Cent. <i>ad valorem.</i>	GREY YARN Per Cent. <i>ad valorem.</i>
Holland	5	Free
Switzerland.....	4	3
Japan.....	7	7
Norway.....	12	6
Roumania.....	21	5
Denmark.. ..	15	7
Greece	25	20
Sweden	30	9

A fact of no little importance, in view of the supposed necessity to take action for the more absolute reservation of the home market for home producers is brought out in statements setting forth the relative importance of the home and export trades. Reference has already been made to some data relating to the point, but the following summary statement is worth attention.

ESTIMATED PERCENTAGE OF VALUE OF EXPORTS TO THE
TOTAL OUTPUT OF THE COTTON INDUSTRY.

Average of the Years.	Gross Values.	Net Values.
1876-1880	85.2	85.5
1881-1885	84.4	84.4
1886-1890	82.5	82.6
1891-1895	81.5	80.9
1895-1900	79.3	79.4
1901-1904	83.3	83.1

The high figures for the last period are largely due to the high proportion attained by the export trade in 1904. Up to

the end of the nineteenth century the relatively growing importance of the home market is a noteworthy feature, while the spurt in export trade developed in 1904 is in curious disagreement with the laments over the decline in that branch.

That the cotton manufacturers of Great Britain will need to take advantage of every means for maintaining their power to compete for trade in rivalry with the other nations in the world's markets is very clear. The sketches of the growth of the industry in a number of important countries, and of the tariff policy followed at different stages in those countries are valuable and interesting features of the report. A careful consideration of the material offered in evidence, however, leaves the impression that an even franker admission of the failure to make out a case in accordance with the general objects towards which the commission is working would have been justified by the evidence produced. Other textile industries may afford better material for tariff proposals; the cotton industry, though not growing as fast as the nation, can offer but poor support to the general tariff scheme.

WORKED BOTH WAYS.

H. A. Fuller, toastmaster at the annual banquet of the Pennsylvania Bankers' convention in Wilkesbarre recently introduced with this story the banker who responded to the toast, "Our Depositors."

A depositor in a neighboring trust company is an eccentric farmer of middle age. This farmer, though he is wealthy, over-drew his account one day to the tune of \$500.

Notification of the overdraft was at once sent him. He replied:

"You tell me I have overdrawn my account \$500. Well, I know it. So what is the necessity of bothering me about it? Why not trust me as I do you? Do I go to you when I have money in your institution and shout: 'You have \$500 of mine'? Such statements are superfluous either way."

CANADIAN BANKING.

L. STEWART-PATTERSON.

OF late years the Canadian Banking System has met with no small share of attention on this side of the line, and papers are frequently read at the various bankers' association meetings on our system; it was, therefore, with a good deal of diffidence that I accepted the honor of addressing you on such a hackneyed subject, not only because I follow more able and eloquent exponents, but because of the difficulty of taking it out of the plane of monotonous repetition.

I will first inflict on you a little history, because I wish to lay particular stress on the fact that our banking system has been evolved, not made, that it has grown up with the country, suffered with it, prospered with it, and since confederation has been the sturdy hand maiden of commerce and agriculture; the careful decennial revisions of the banking laws keeping it continually in touch with Canada's constantly altering conditions and requirements.

From 1608 to 1760 is generally known as the "New France Period," and is famous principally for its "card money." This was actually made from ordinary playing cards, signed by the intendent and the clerk of the treasury, with the crowned *fleur de lis* impressed in wax, presumably secured by expected remittances from Old France. This form of money was scandalously over issued with the usual disastrous effect, yet for lack of a better circulation medium it was used in a more or less modified form until the capitulation in 1760, when it was then at a discount of 60 to 70 per cent.

1760-1791, British Occupancy. — Country without paper money. Coins of various countries used as legal tender. Government imported and paid out large quantities of Spanish

dollars at 4s 6d dollar, or \$4.44 4/9 per pound, the old par of exchange.

1791-1812.—Representative government was established in 1791, but all attempts to obtain charters for banks of issue were unsuccessful.

1812-1817.—War with the United States. Imperial army bills came into general use and passed freely as legal tender to the marked benefit of the colony.

1817-1867.—The present Canadian Banking System practically originated in May 1817, when the Montreal Bank, now known as the Bank of Montreal, was founded, and was followed by the establishment of other banks under charter from the various provinces.

1867-1905, Dominion of Canada.—Charters now issued by the Dominion, instead of the Provincial governments. By the Bank Act of 1871 the duration of a bank's charter was practically limited to ten years, and we find decennial renewals concurrent with the decennial revision of the bank act in 1880, 1890, and 1900, under the latter act we are now working. Such revisions are neither made by theorists nor tainted by political expediency, the ablest men in the country are consulted regardless of politics, lawyers, merchants, bankers, and others equally well qualified, all contribute their criticism and advice to the best interests of the country and its advancement, and thus with little or no friction, the measures are fully debated, and when finally passed, are acceptable to all interests.

The present Canadian bank act has over 100 clauses, and stipulates that a new bank must have a subscribed capital of at least \$500,000, with not less than \$250,000 paid up and deposited with the government as a pledge of the *bona-fide* nature of the undertaking; this is, of course, returned when the charter is finally granted or refused. The liability of a shareholder is limited to as much again as the paid-up value of his shares. This is called the double liability. No dividend must be paid out of capital, or exceed eight per cent, until the reserve equals one-fifth of the capital. Monthly statements are compulsory, showing the exact position of the bank's affairs, and these are published in the official Gazette as well as by the press; a full list of shareholders is also submitted to the government and published by them annually, and subjected to the keenest scrutiny by the other banks and the public. Every

chartered bank in Canada publishes twelve monthly and two semi-annual statements a year of their detailed assets and liabilities, all of which are subjected to the most searching investigation and criticism of thousands of bankers, investors and others, who are thus afforded not only a close insight into the position of each bank, but a bird's-eye view of the whole financial condition of the country, a most important feature in a national banking system.

My time being limited, I will confine myself to the two distinctive features of the Canadian banking system—that of note issue and branches—a combination which has not only aided materially in the wonderful progress of the country, but has placed ours among the first banking systems of the world.

Three or four years ago President Stickney, of the Chicago, Great Western Railway Co., asked the American Bankers' Association "How it was that a narrow fringe of population on the borders of the Arctic Circle was practically unaffected by the serious panics and financial disturbances to the south of them, and were able, not only to move their own crops, but a great part of the American crops, and lend millions on the New York money markets with the utmost ease, while the great American nation, with all its wonderful wealth and resources, looked helplessly on." It is this question that I am going to do my best to answer in part in explaining the note issue and branch system of that "narrow fringe."

There are in Canada to-day thirty-two chartered banks, some of them having over 100 branches scattered throughout the Dominion, receiving money in Dawson City to-day and lending it out in Halifax to-morrow, endlessly working to remove money where it is plentiful to where it is most needed; in other words, by this system, money always finds its own level, and the merchant in Victoria, B.C., pays practically no more for his banking accommodation than his confrère of equal standing in Montreal.

I will now try and give a practical illustration of how the branch system actually works in distributing the wealth of the country evenly. A bank, say, has branches in two towns; it is immaterial whether only ten miles or 2,000 miles apart; Dullville is a comparatively wealthy town, with a population composed in great part of retired merchants and farmers, with practically no industries, and with little or no enterprise; the

deposits here are heavy, with no demand or outlet for money in the town. Workville, on the other hand, is a bright little manufacturing town, with all its private money invested in its constantly increasing industries, and the branch here receives but meager deposits to meet the heavy demand for advances; now, here is where the branch system steps in and enables the Workville branch to use the surplus funds of Dullville, and thus supply the legitimate requirements of its customers, to its own profit and the benefit of the town. If you can imagine this principle working every day in hundreds of branches throughout Canada, ten, 100 or 1,000 miles apart, and yet each as intimately interdependent on each other as the above, you will realize the wonderful financial system we have evolved in our midst. A branch till is like the widow's cruse of oil, you can never empty it, nor yet, on the other hand, can you cause it to overflow.

In round numbers there are about 14,000 banks and trust companies scattered throughout the length and breadth of this great country of yours, each carrying an account in a New York bank or other central reserve city. Fourteen thousand varied opinions on the financial situation, and all looking askance at their neighbor and the New York money market, basing their criticisms and opinions in great measure on the weekly statement published by the clearing house banks in New York, which not only forms a poor criterion of the financial condition of the country at large, but even of New York City itself; and all this with no possible chance of united action to avert financial disaster or panic in the country.

Contrast this "splendid isolation" of financial interests with Canada, whose territory, though even larger, is not so thickly populated, yet, in case of emergency, twenty-four hours will suffice to bring the general managers of our thirty-two banks to Montreal, and their united counsel and experience can forefend the anticipated trouble, and, if necessary, they could in a few hours cause every branch in Canada, from Dawson City to Halifax, to act in unison; and, mind you, it would be united action in fact, there would be absolute obedience to the order telegraphed. We can hardly imagine a panic with a system under such perfect control. Consider, too, the personnel of such a council as mentioned above, men trained from their youth up in their profession, as only such a system can train;

in their early years moving from branch to branch throughout Canada, and thus becoming thoroughly versed in local customs and environments, and in many cases gaining experience in foreign branches in Europe, United States or West Indies. Later on we find them as accountants and managers of large city branches, until finally, as general managers, we see them with their finger on the pulse of the country, receiving daily advices from their numerous branches, comprehensive, if not exhaustive, of the financial conditions of the country at large. Our general managers are well known all over Canada, and have the friendship and respect not only of all our own prominent men, but also of all of the leading financiers of the States and England, and the banks can claim a truly national character, if not international. I think I have now said sufficient to satisfy you as to the advantages of the branch system over isolated banks, and I will now pass on to a consideration of the note issue, which is intimately connected in its successful working with the branch system.

By the bank act, Canadian banks are allowed to issue notes of \$5 and multiples, up to the amount of their unimpaired paid-up capital, against the general security of their general assets, on which they form the first lien. As a further security, and to avoid discount at the moment of suspension of a bank, each bank is obliged to keep a deposit with the government equal to five per cent of the average circulation of the month. This is called the bank circulation redemption fund, and should the almost impossible happen, and the assets of a failed bank be sufficient to redeem the circulation outstanding at the time of the failure, the entire fund is liable for the deficiency, and the other banks have to stand the loss pro-rata. This fund was established in 1890 at the suggestion of the banks themselves.

The note-holder is amply protected therefore: First, by the total assets of the bank. Second, by the five per cent redemption fund bank. Third, by the double liability of the shareholders. Fourth, by the entire redemption fund.

The amount of circulation at the end of May, 1905, was about \$59,000,000 for the whole of Canada, and to meet this, in case of trouble, the banks could show: Total assets, \$739,000,000; five per cent redemption fund, \$3,300,000; double liability, \$82,000,000; or nearly \$70 assets for every \$5 note issued. Penalty for issue over paid-up capital ranges from

\$1,000 to \$100,000. Notes of failed banks bear interest at rate of five per cent per annum from date of suspension until redeemed either by liquidator or government.

It may perhaps occur to you why should all this precaution be taken to protect the note-holder, as against the principal creditor, the depositor, but you will recognize an essential difference between note-holders and depositors, the former being an involuntary creditor, and the latter a voluntary. The depositor becomes a creditor of his own free will, for his own apparent benefit, and exercised his own choice in the selection of a bank. The note-holder, however, received it in good faith, in payment for labor or merchandise, and has to be protected fully. A note issue, to fulfil its best and most useful functions, must be absolutely and without question as good as gold.

All the banks are required to insure the circulation of their notes at par in every part of Canada. This is effected by requiring each bank to have known redemption agents in the cities of chief commercial importance, namely: Halifax, St. John, Charlottetown, Montreal, Toronto, Winnipeg and Victoria. Every bank, therefore, takes all bills at par and forwards them to the nearest branch or redemption agent of the bank of issue, hence every day, all over Canada, the banks receive a severe test as to their ability to redeem their circulation, no matter how freely offered for redemption. This fact forms one of the strongest advantages of our note system, and makes the circulation perfect and free from stagnation. It is in fact a prototype of the circulation of our own bodies, the bills forming the life blood of the country; leaving the heart, or bank of issue, they flow through the main arteries of commerce and trade through Canada, returning by the veins of the redemption system to the bank of issue, there cleansed from soiled and mutilated bills and again sent out to their allotted task; changing in velocity and volume of circulation as the activity or requirements of the country demands; and as the pulse tells the doctor the condition of his patient, so does the pulse of the circulation tell the experienced banker the prosperity or otherwise of his country.

Before going further I must impress on you the fact that in the tills of its own bank, a note has absolutely no value, except as stationery, any more than your own note has to you after you have paid it. So that every bank can carry a good

supply of its own notes at every one of its branches without the least expense. A bank, say, with a paid-up capital of \$3,000,000, and only \$2,000,000 in circulation, could lend or pay out \$1,000,000 more in any part of the country requiring it, and so the circulation expands and shrinks according to the wants of commerce. It will expand to pay for butter and cheese, to move the crops, to pay for lumbering operations, here, there and everywhere, and contract silently when it has performed those respective duties, and all this without the least disturbance of any of the bank's other numerous functions or obligations. You will now see how a deposit can be made or a loan paid in Montreal and loaned again in Vancouver, the same day, without the transference of the actual cash itself.

In every country, more especially every new country, where the agricultural interests are naturally preponderant, the alternations of the seasons, the rotation of the various crops and other agricultural products have a marked influence on the currency requirements of the nation. Thinking it might prove of interest to you, I have prepared a table showing how absolutely and simultaneously Canada's currency meets these sudden demands, and how with equal ease the circulation returns when its usefulness is over.

**VOLUME OF CIRCULATION OF CANADIAN BANKS IN
MILLIONS, 1901-04.**

	Jan.	Feb.	Mch.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1901..	45.	45.9	47.6	47.	46.1	49.1	48.9	51.4	56.	58.	57.7	54.4
1902..	48.6	49.5	52.4	50.7	50.8	54.	52.1	55.	61.	65.9	64.5	60.6
1903..	55.	55.7	58.3	55.9	56.9	58.9	57.6	60.4	63.7	70.5	67.4	62.5
1904..	57.	57.7	59.7	58.6	57.9	60.	59.9	60.2	63.8	72.2	69.4	64.5
1905..	58.	58.8	58.7	59.9	58.1							

DIFFERENCE OVER PREVIOUS MONTHS IN ABOVE.

	Jan.	Feb.	Mch.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1901..		.9	1.7	.6	— .9	3.	— .2	2.5	4.6	2.	— .3	—3.3
1902..	—5.8	.9	2.9	—1.7	.1	3.2	—1.9	2.9	5.	4.9	—1.4	—3.9
1903..	—7.5	.7	2.6	—2.4	1.	2.	—1.3	2.8	3.3	6.8	—3.1	—4.9
1904..	—5.5	.7	2.	—1.1	— .7	2.1	— .1	.3	3.6	8.4	—2.8	—4.9
1905..	—6.5	.8	— .1	1.2	—1.8							

VOLUME OF CIRCULATION, 1891-94.

	Jan.	Feb.	Mch.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
1891..	31.7	31.9	33	30.9	30.9	31.4	30.6	32.	34.1	37.2	37.4	35.6
1892..	32.7	32.7	32.5	31.5	31.4	32.6	32.5	32.6	35.	38.7	37.1	36.2
1893..	32.8	33.	33.4	32.6	31.9	33.5	33.6	33.3	35.1	36.9	35.1	34.4
1894..	30.5	30.6	30.7	30.	28.5	30.3						

17th July, 1905.

The first part of the table shows month by month in millions the volume of circulation since 1901, steadily increasing year by year, but fluctuating unerringly in the same direction in the corresponding month of each year.

The second part of the table shows the difference of each month over the previous month, and demonstrates the inexorable law of seasonable demands. The third table shows the volume of circulation ten years ago, 1891-94, and, though not worked out into differences, shows the seasonal requirements equally regular, thus:

Looking at the second table you will notice that circulation is at its lowest in January, when little or nothing is doing in the country, and some five or six millions are redeemed. February shows a slight output, principally advances to small independent jobbers by the large lumber companies.

March again calls for an increased issue; large lumbering camps are being paid off, sufficient men for the drives being alone retained.

In April most of this circulation returns, by lumbermen depositing it or paying up the family bills for the winter at the stores, or in many cases, I am afraid, spending it not so wisely.

May, the spring month, is more or less undecided and shows a general average of inertia.

June speaks in no uncertain tone of "something doing"; in the early part the lumber drivers, if all has gone well, are paid off; payments for dairy products commence their upward swing, and constant activity prevails throughout the newly awakened land.

July, strange to say, shows a falling off, the bills paid out in the previous month for lumber return as in April; circulation paid out for butter and cheese during June is used to discharge the winter store bills by the farmer; factories are closed down for repairs and stock taking, and the steady circulation of pay days asserts itself by its absence.

August recovers bravely, butter, cheese and hay and all manner of fruit and vegetables for canneries and table use, call largely for currency, and with increased momentum join issue with the cereal crops in September, culminating in the highest point of circulation in October. In November the steady return

commences and continues all through December and January.

It is impossible to detail all the influences that affect the circulation, but roughly I think I have covered the most important. A late winter, such as we had this year, will, of course, affect the amount of the spring differences slightly, as will late crops or a holding for better prices affect the fall. But on the whole the months run either as an increase or a decrease concurrently for each year. A glance at the movement of the national bank currency shows no such seasonal rise and fall of circulation; it shows, it is true, a gradual rise every month, denoting new banks or other causes besides that of public polity. If I may be pardoned the metaphor, your circulation can be likened to the gentle undulating uprise of the foothills, vaster in bulk and more unwieldy than the clear cut and abrupt rise and fall of the mountains themselves, to which a diagram of our own frequent fluctuations bears a close resemblance.

To sum up, I hope I have demonstrated why the Canadian system of bank currency has been accorded such a high place among the currency systems of the world, not only on account of the absolute safety to the note-holder, but also on account of its elasticity in meeting every need of national life and commerce. The unfailing reciprocal payment of each others notes at par, by banks all over the Dominion, followed by prompt redemption, renders unhealthy inflation an impossibility, while the automatic expansion of the circulation, whenever required, or called for, by the exigencies of agriculture and commerce, from no matter what part of the Dominion, has been no mean factor in making Canada what it is to-day.

HOW TO WITHDRAW SAVINGS.

"If I deposit my money in the savings bank?" asked a man recently arrived from Ireland, "when can I draw it out again?"

"Sure," replied his friend, "an' if you put it in this day, you can draw it out again to-morrow by giving a fortnight's notice."

MORE HINTS TO JUNIORS.

1. It is somewhat of a platitude to say, that it is easier to give advice than to take it, but, unlike the majority of platitudes, this has a strong foundation of truth. It must be remembered, however, that if several years of banking do not endow with wisdom, those who offer advice, it at least enriches them with the blessing of experience. It is in such a spirit, therefore, that the following maxims are offered for what they are worth.

2. Don't be afraid about getting down too early in the morning. An early arrival betokens a fondness for your work—and that counts for a lot.

3. Refrain from smoking when you are out with your collections or calling at the other Banks. There is no worse blot on the landscape than an embryo General Manager with a cigarette in his mouth and his hat cocked on one ear. And besides, your Manager's family may be on the other side of the street, or that man who gave you a keen look as he passed, is perhaps your Inspector, happening in, on one of his friendly visits.

4. When you leave drafts with the different merchants, don't demand them again at the point of the revolver. Remember that a man is more apt to resent being driven, than to do you a favor.

5. Don't monopolize the telephone with your private affairs. The conversation may be very interesting to you and the person at the other end, but your Manager may be waiting to connect with Head Office and sometimes "delays are dangerous"—for you.

6. Be respectful, both in speech and in manner, to those above you in the office. It is the man who respects others in his youth who commands it for himself in later years.

7. Be courteous in all things—no matter how trivial—with your Bank's customers. Remember that your polite manner, your cheerful friendly greeting, and your willingness to oblige

are valuable helps in your Manager's effort to build up his savings business. Remember also that "politeness costs nothing" and for so cheap a commodity goes a long way.

8. Don't be in a hurry to get away in the afternoon—your time for that will come later on. When your Manager stays behind to write letters it is as well to remain likewise, and it may help some to be seen reading your Rule Book in the distance.

9. Cultivate a good style of writing, and if you have a copy book thrown at you, don't get offended, but sail in and practise all you can. Character can be told from penmanship, and a "sloppy fist" is apt to suggest a "sloppy" mind.

10. Remember to speak distinctly when you "call off" in the morning. Some managers are not as young as they might be, and a slurred over amount may mean a month's "call."

11. Don't forget that in a sense you represent your Bank after hours as well as from 10 to 3. Every act that is discreditable to you reflects in a lesser degree upon your Bank.

12. Don't "talk shop" with your friends in other Banks. Lots of information may slip from you that you have no right to give, and you may regret it.

13. Keep your opinion of your Manager to yourself. It may be very interesting and accurate, but in most places things have a way of getting round to the wrong person.

14. And lastly remember that Banking has as many prizes as Law, Medicine, Journalism or any other profession, and it rests with yourself whether you get up into the dizzy heights of Head Office favor, or remain in the valley beneath with the vast army of mediocrities.

VICTOR W. S. HERON.

OVER-MANY LAWS.

A CRYING CURSE OF THE DEGENERATE LEGISLATURES.

Henry St. George Tucker, of Virginia, is the latest public speaker to call attention to the evils inflicted on the public by the excessive over production of laws and statutes. In his address to the members of the American Bar Association, of which he holds the presidency, Mr. Tucker, among other excellent things, said:—

“What impresses one most deeply in an examination of the legislation of the States is the number and variety of subjects of legislation and the assumption (I will not say always improperly) by the state of functions which in our earlier history were unclaimed by it. We are a much-governed people, and there is nothing which affects the American citizen, from infancy to the grave, awake or asleep, in motion or at rest, at home or abroad, in his personal, social, political or property rights, which is not the subject of regulation by the state. Indeed, whether we eat or drink, or whatsoever we do, we do it all in subordination to the law of the state. The Government, as trustee for society, controls our rights, our wants, our necessities, and our individual action in their relation to society. The pangs of hunger and thirst, the uses of property and the freedom of individual action are all regulated by their effect upon others, and we realize at last in its fullness of meaning the truth that ‘no man liveth unto himself.’ The home is no longer a man’s castle, but it may be a prison house with the family as the inmates and the board of health as jailer.”

Upon these remarks the Albany *Argus* comments as under:—

“The same thing has been said before, but it cannot be said too often, or too emphatically; too many be-it-enacted are the growing curse of our time. The people are in part to

blame for the abuses and excesses of legislation, for a delusive notion has grown up that every evil or misfortune can be cured by a statute decreeing that it shall no longer exist; but thousands of laws are on the books at which lawyers, even, are surprised when their attention is called to them—they never dream of their existence.

“More than 700 new laws were added to New York State’s total by each of the last two Legislatures. Think of such a total, in an old state, where all ordinary and natural subjects of legislation were covered, years ago. In great part, these new laws are tinkering and fixings-over of old statutes, to gratify a legislator’s whim that he can do it better; but ignorance of the law excuses nobody, and the impossibility of keeping track with them all, and understanding the changes in old laws with which one may chance to have been familiar, is no defence.”

But for the fact that a large percentage of the inquisitorial paternalistic legislation of the States is dead letter from the start, the patience of a much-legislated people might give way, or force the election of Legislatures pledged not to legislate.

QUESTIONS ON POINTS OF PRACTICAL INTEREST.

REPLIES may be obtained through this column to enquiries of Associates or subscribers from time to time on matters of law and banking practice, under the advice of counsel where the law is not clearly established.

The questions received since the last issue of the JOURNAL are appended, together with the answers.

Interpretation of instructions received from client.

QUESTION 612.—A limited company designated A doing their banking business with a bank designated B, has an Inland Bill of Exchange presented to them for acceptance by an opposition bank designated C. Said Bill of Exchange is not drawn on A but is drawn on another limited company designated D. The secretary-treasurership of the two companies A and D is held by the same man. Said Bill of Exchange, although drawn on D, is accepted by A payable at B's office. Upon maturity the Bill of Exchange is presented to B by C for payment. B refused to charge up to A's account without special authority from A, claiming that Bill was not in order. The general instructions from A to B is "Charge up all acceptances presented at maturity." Would you kindly let me know if B was right in refusing to charge up Bill of Exchange without special authority from A.

ANSWER.—Certainly, B was right.

Liability of banks accepting partial payment of acceptances.

QUESTION 613.—I observe that in some places it is customary for banks to accept payments on account of unaccepted

drafts in cases where the drawee claims the amount to be incorrect, and to return the Bill unaccepted with the payment endorsed along with the remittance. Is not this a dangerous practice inasmuch that it may put the drawee in a position to set up the claim that this amount has been accepted on behalf of the drawer in full settlement of the account?

ANSWER.—If the payment is correctly endorsed “Received on account of the within \$——,” it will not prejudice anyone’s rights. If the bill is subject to protest it should be protested.

Liability of banks accepting partial payment of acceptances.

QUESTION 614.—Does a collecting bank assume liability in any manner, shape or form, by accepting partial payment on a non-protestable bill? Does the collecting bank, by accepting said payment on account release the drawer or endorser. Does it weaken the latter’s claim on drawee? Does not the fact of it being a general custom between banks to accept “account payments” on non-protestable bills forwarded for collection in the usual manner make such custom unlawful?

ANSWER.—If the payment is correctly endorsed “received on account of the within \$——” it will not prejudice anyone’s rights. If the bill is subject to protest it should be protested.

Forged cheque marked “good” in error. Endorsement also forged. Liability of interested banks.

QUESTION 615.—A cheque on the Bank of ——, purporting to be signed by “A,” payable to the order of “B,” is marked by the Bank of —— “accepted good.” Subsequently, the cheque is endorsed with what purports to be “B’s” signature, and the endorser goes to the commercial establishment of “C” from whom he buys goods to about the amount of the cheque. The cheque is given to “C” in payment. “C” takes the same and deposits the cheque to his account with his bankers, the —— Bank, and that bank in due course puts the cheque through the Clearing House, and it is paid by the Bank of ——. The Bank of ——, sometime after the cheque has been paid, dis-

covers that the signature of "A" on the cheque and the endorsement of "B" on the cheque are forgeries.

What is the legal liability of the banks as regards themselves, that is to say, can the Bank of — recover the amount of the cheque from the — Bank?"

If any similar case has arisen—and this would not seem improbable—it does not seem to have been referred to the Courts for adjustment, or, if it has been, there appears to be no official report of the decision. I have carefully examined the reported cases, but have been unable to find any decided case similar to the one presently submitted.

ANSWER.—I am informed that, by recognized banking usage, a custom has been established whereby banks stamp cheques (and the Ledger keeper initials them), "accepted good," or, "accepted good for two or three days," or some other limited time—as the case may be—and that the bank which so accepts cannot recover from the innocent payee of that cheque the amount paid, even though the signature of the drawer be a forgery, as the bank is presumed to know the signatures of its depositors.

By Section 72 of the Bills of Exchange Act, 1890, "a cheque is a Bill of Exchange drawn on a Bank payable on demand." A bank, therefore, accepting a cheque is placed in an analogous position to the acceptor of the Bill of Exchange, who, by accepting it under the provisions of Section 54 of the Bills of Exchange Act, is precluded from denying to the payee the genuineness of the signature of the drawer.

In the absence of established usage amounting to custom, this would not be so in view of the following decisions in a contrary sense.

In the case of *Gaden vs. The Newfoundland Savings Bank* (L.R. Appeal Cases, 1899, p. 281), the question of the effect of accepting or certifying cheques was dismissed by the Privy Council.

This case interpreted certain Sections of Chapter 95 of the Consolidated Statutes of Newfoundland which contains the Bills of Exchange Act of that Colony.

The Sections of the Bills of Exchange Act of Newfoundland which correspond to the three above mentioned Sections of

the Canadian Bills of Exchange Act are identical in terms with those of the Canadian Act. The decision, therefore, is quite in point.

It was contended in that case by the Appellant, the payee of the cheque which had been initialled and accepted by the bank of the drawer, that the initialling and acceptance of the cheque had the effect of making it current cash. Their Lordships, in discussing that proposition, made use of the following language:—

“It does not, however, appear to their Lordships, in the absence of evidence of such a usage, that any such effect can be attributed to this mode of indicating the acceptance of a cheque by the bank on which it is drawn. A cheque certified before delivery is subject, as regards its subsequent negotiation, to all the rules applicable to uncertified cheques. The only effect of the certifying is to give the cheque additional currency by showing on the face that it is drawn in good faith on funds sufficient to meet its payment, and by adding to the credit of the drawer that of the bank on which it is drawn.”

The same principle has been laid down by the Privy Council in the case of *The Imperial Bank of Canada and The Bank of Hamilton* (L.R. Appeal Cases, 1903, p. 49), in which the Lords of the Privy Council made use of language identical in terms to that used in the case of *Gaden vs. The Newfoundland Savings Bank*.

Leaving aside, however, the question of how far the Bank of — became liable by having certified the cheque “accepted good,” which only indirectly bears upon the subject in my view of the case, there remains the question of how far the Bank of — is liable in view of the forged endorsement made subsequent to the acceptance of the cheque by the Bank of —.

I am of opinion that, reading Section 24 of the Bills of Exchange Act in conjunction with Sub-section 3 of paragraph B of Section 54, the endorsement of “B” on the cheque having been forged, “C,” or any holder of the cheque subsequent to him, has no right to enforce payment thereof against any party thereto previous to the forged endorsement.

Section 24 of the Bills of Exchange Act is as follows:—

“24. Subject to the provisions of this Act, where a signature on a bill is forged or placed thereon without the authority

of the person whose signature it purports to be, the forged or unauthorized signature is wholly inoperative, and no right to retain the bill or to give a discharge therefor or to enforce payment thereof against any party thereto can be acquired through or under that signature, unless the party against whom it is sought to retain or enforce payment of the bill is precluded from setting up the forgery or want of authority:

Provided, that nothing in this section shall effect the ratification of an unauthorized signature not amounting to a forgery: And provided also, that if a cheque, payable to order, is paid by the drawee upon a forged indorsement out of the funds of the drawer, or is so paid and charged to his account, the drawer shall have no right of action against the drawee for the recovery back of the amount so paid, or no defence to any claim made by the drawee for the amount so paid, as the case may be, unless he gives notice in writing of such forgery to the drawee within one year after he has acquired notice of such forgery; and in case of failure by the drawer to give such notice within the said period, such cheque shall be held to have been paid in due course as respects every other party thereto or named therein, who has not previously instituted proceedings for the protection of his rights."

Sub-section 3 of paragraph B of Section 54 of the Bills of Exchange Act is as follows:—

"The acceptor of a bill, by accepting it:—

(b) Is precluded from denying to a holder in due course;

(3) In the case of a bill payable to the order of a third person, the existence of the payee and his then capacity to endorse, but not the genuineness or validity of his endorsement."

In the case of *Ryan vs. The Bank of Montreal* (Ontario Appeal Reports, Vol. 14, p. 533, 1887), a question arose almost similar to the one presently under discussion. That case, however, was decided previous to the passing of the Canadian Bills of Exchange Act, 1890.

In the case of *Ryan vs. The Bank of Montreal*, the Ontario Courts of Appeal discussed very fully the rights of the holder of a Bill of Exchange upon which the first endorsement had been forged. In that case, however, the endorsement forged

was that of the drawer of the bill whose signature was also forged.

The question raised in the case of *Ryan vs. The Bank of Montreal* is now covered by sub-section 2 of paragraph B of Section 54 of the Bills of Exchange Act, 1890, and was not contained in the Bills of Exchange Act of 1886, which was in force when the decision of *Ryan vs. The Bank of Montreal* was rendered.

In 1886 the Court of Appeal for the Province of Quebec in the case of *The Banque Jacques-Cartier vs. Lescard*, decided that when a promissory note had been obtained by forgery, the third party who had become the holder thereof in good faith would recover the amount from the maker.

In the case of *Ryan vs. The Bank of Montreal*, the Judges of the Court of Appeal of Ontario discussed very fully the rights of a holder of a cheque or Bill of Exchange, subsequent to a forged endorsement, as against the drawer and acceptor of the Bill of Exchange.

It is evident from an examination of the case, and the numerous authorities cited by their Lordships, that, where the endorsement on a Bill of Exchange had been forged after acceptance and the endorsement was that of anybody else but the drawer of the Bill of Exchange, the acceptor of the Bill was not liable, and this is in complete conformity with the Bills of Exchange Act, 1890, sections 24 and 54, which was enacted subsequent to the judgment in *Ryan vs. The Bank of Montreal*. The English decisions are entirely in accord with these views.

I am, therefore, of opinion, after a careful examination of the authorities and the terms of the Bills of Exchange Act, 1890, that the Bank of — has a right to recover from the — Bank the amount of the cheque in question, assuming that the Bank of — acted in good faith, and has notified the — Bank of the forgery within reasonable delay.

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EDITORIAL NOTES

Time is like a fashionable host,
That slightly shakes his parting guest by the hand;
And with his arms outstretch'd, as he would fly,
Grasps in the comer: Welcome ever smiles,
And Farewell goes out sighing.

—*Shakespeare.*

In the opening month of last year, the JOURNAL, reviewing reports of the outlook in Canada, from ocean to ocean, pointed to the predictions of several general managers of our banks that 1905 had dawned auspiciously and promised to be marked by industrial progress. The prediction was fulfilled. The past twelve months will long be remembered as a period of unusual prosperity and consequent contentment.

Welcome 1906

The recent statements issued by the chartered banks are sufficiently satisfactory to justify belief in 1906 proving to be an equally happy and prosperous year. So may it be.

Professor Shortt has reached in this number of the JOURNAL a period of extreme interest to many bankers of our own times, and those who remember the exciting days of which he writes will read the historian's account thereof with absorbed attention.

History of
Canadian
Banking

The Honorary Secretary of the London Clearing House says in his report upon the business transacted during 1905: "The figures of the paid Clearing for 1905 are in many respects the most remarkable issued in the history of the Clearing House. For the fifth year in succession the total has exceeded all previous records." The total clearings for the year were £12,287,935,000, as against £10,564,197,000 in 1904.

Old London
Town

The recent failure of a loan and savings company will furnish additional reasons to Provincial Governments for denying to companies transacting business in real estate, or advancing money on mortgage, the privilege of accepting savings accounts. It is the duty of legislatures, as the *Montreal Gazette* very properly pointed out, and well within the power of law-makers, "to protect ignorant and uninformed people against the experiments of amateurs in finance." The York County Loan and Savings Co. seems to have conducted business with money received from a large number of depositors, who reserved to themselves the right to withdraw their deposits within a limited time. The money thus collected was in part invested in real estate. These investments may prove good or bad when realized upon, but were virtually useless when the company required cash wherewith to meet its obligations. Canadian chartered banks are not permitted to loan money on the security of real estate, and it

A Failure
and its
Lesson

might be equally wise for all legislative bodies to make the acceptance of deposits by companies engaged in the real estate, loan, mortgage, or trust companies unlawful.

The numerous small loan and trust companies which have applied for charters during the past three years have almost invariably sought the right to accept money on deposit. In many instances these companies have asked to be permitted to commence business so soon as a small fraction of a not too large capital should be paid up. The danger of giving this power to such companies is so frequently illustrated that it is surprising to find people willing to part with their savings, even when the rate of interest be far higher than that obtainable from the Government or the chartered banks.

The Quebec Legislature is fully alive to the necessity of guarding the savings of the people in every possible way, and has decided to deny banking privileges to any trust, loan, or savings company unless the applicants for a charter containing any of such rights have a paid-up capital of a quarter of a million dollars.

It will be difficult to convince Englishmen that their trade is decaying, and their industries becoming useless for want of a tariff wall, so long as the figures representing the import and export trade of Britain fail to support the statements of those who are bemoaning the commercial decadence of the Motherland.

The Exports of Old England

The exports for November amounted to £29,608,000, and imports to £53,146,000. The exports of 1904 constituted a record, but the aggregate for that year was only £300,817,897, whereas the total for eleven months of 1905 reached £301,371,273. The advocates of tariff wall building, and the adoption of other devices for improving the trade in the red sections of the map of the world should be content that things are as they are. The percentage of increase in the trade of Great Britain may not be equal to that shown by her younger rival on this continent, but, with the exports for 1905 in excess of any previous year, even Mr. Joseph Chamberlain and his earnest followers, working as they are to maintain British supremacy in the markets of the world, surely have little reason for lamentation.

**The Gold
Standard**

Another country is at last beginning to realize that her business with the gold using countries of the world cannot progress as it otherwise would if the fluctuations in the value of silver were removed. The country in question, China, finds that importers of merchandise are unable to reckon in their local currencies the cost of remitting gold for purchases in gold standard countries. Silver fluctuates in value to such an extent that importers in China never know when they have to pay more or less dollars to the sterling pound for goods bought. This difficulty in transacting business in China makes it absolutely necessary that payment of interest in gold be guaranteed on all permanent investments. This stipulation, indispensable to the money lenders, fixes all the loss resultant from the fluctuations in the value of silver upon the borrowers.

The *London Bankers' Magazine* sees good reason to hope for improvement in the financial affairs of China, owing to the circumstance that the Central Government of that country has become a sufferer through the condition of things described. It seems that through lack of centralized authority the governors of the different provinces enjoy exceedingly lucrative privileges in connection with the circulation of so-called money. They derive big profit from local mints, and naturally are reluctant to surrender same. However, the entire world is waking up to knowledge of the value of adopting the gold standard, and China is now likely to be converted by the decline in her revenue from customs duties. Hitherto, duties have been payable in "taels," and, owing to the diminished value of silver, the revenue produced is only about half the amount it would represent had the "tael" remained in value what it was years ago.

**Hudson's
Bay**

When Major Moodie started in the spring of 1904 on behalf of the Marine Department and the North-west Mounted Police for the great inland sea of Northern Canada, the *JOURNAL* commented upon the importance of the expedition. Major Moodie has now returned, and his report is most interesting. The expedition has virtually determined the period of open navigation in the Hudson's Bay and Straits to be four months, and now that two railways are being projected towards the nearest coast there

must be a renewal of interest manifested in the long debated problem of utilizing the Hudson's Bay route for the shipment of grain from Western Canada to the Port of Liverpool. Major Moodie deserves the gratitude of his countrymen for the excellent work performed by the expedition under his command. He has established Mounted Police Posts at suitable places on the Hudson's Bay coast, thus setting at rest the question of enforcing the jurisdiction of the Dominion over the various enterprises conducted there, chiefly the whaling industry, and the trading ventures incidental to that business.

No book of travel and adventure could be more interesting than the report of Major Moodie of the cruise of the *Neptune* in northern waters, and of the several inland trips made during last winter by the police under his command. One of the most interesting incidents reported by Major Moodie is the arrival of an Esquimaux runner at Fullerton with despatches from Capt. Amundson, of the Norwegian Arctic Expedition, now at Victorialand. The despatches have been forwarded to Europe, and the Mounted Police sent back by the messenger ten dogs, of which the Norwegians were in dire need. They were also assured that, in the event of their ship, the *Gloa*, being disabled, comfortable quarters and provisions could be obtained at the Mounted Police Post at Fullerton, which could be reached by overland journey. The good work of Major Moodie and his Mounted Police is likely to attract much attention to the great inland sea of Northern Canada, and the Mackenzie River district, and it is quite likely that the railways and banks will soon make the Hudson Bay territory as familiar as the Klondyke region to the pioneers among our people.

Montreal and other Canadian cities are being flooded with leaflets calculated to capture the attention of the needy and distressed. These leaflets ask people who are financially embarrassed to study the terms upon which they can obtain temporary relief. The money lenders, or private bankers, offer to make loans to the needy and distressed upon the security of anything they may have in their possession, and, if sufficiently seriously embarrassed, clerks can obtain money on their salaries without the knowledge of employers. The business conducted by so-called

Usury and that Sort of Thing

private bankers may be legitimate, and must be profitable. But the danger of seeking relief from the worry and anxiety incidental to monetary obligations of a pressing nature by pawning the proceeds of one's weekly labour to a money lender spells ruin for the borrower. The *Montreal Star* recently published a cartoon depicting the userer as a huge blood-sucking spider in whose net when once entangled the borrower becomes the poor and eventually flummuxed fly.

In all ages of the world the poor and unfortunate, and the foolishly extravagant, have been the prey of usurious money lenders. The subjoined tale of usury related by an English clergyman ought to serve as a solemn warning to any careless soul, whatever his financial trouble may be, not to be lured into the net of the money lender by reading his attractive picture of the comparative ease with which relief can be obtained. The story told by this unfortunate cleric does not excuse his folly in borrowing, but his confession may save others from a similar fate. The statement of the Rev. W. B. Allnut, of Covenham Rectory, Lincolnshire, is as follows:—

“In 1872 I borrowed £400 of a solicitor, whom we will call X——, of Pall Mall, London, and signed a paper allowing him to hold my reversion of my father's (John Allnut, of Reading, Berkshire, brewer) property as a security for the use of the loan. A few months afterwards X—— demanded the return of the £400, and when I told him that I could not refund him the money at that time he asked me to accompany him to the offices of a certain London insurance society.

“I consented to do so, and I had then to sign a paper turning over from X—— to the society all my reversions of my late father's property until I could redeem the loan of £400. The paper which I signed at the society's offices now includes a clause to the following effect, ‘That I (now the Rev. Walter Bruce Allnutt) am to pay £1,950 to redeem the £400 that I had borrowed. I have never been able to do this. It was not until I visited the society's offices with the intention of paying off the £400 which I had borrowed, however, that I knew of that clause.

“The society also insured my life (I believe for a considerable sum), and up to the present day hold the policy and pay the premiums. On my mother's death I was entitled to

my share of the money, but the society stepped in, and have claimed my money (which comes to about £100 per year) ever since. They inform me that they will continue to draw the money as long as I live.

“My mother died in 1879, so that the society have drawn about £2,600 already just for the £400 I borrowed in 1872.”

The action of the Secretary of the United States Treasury in making gold and silver interchangeable will strengthen the currency system of the neighbouring country and is an event of much importance. The Secretary, in a recent address before the bankers of Ohio is reported as saying: “Every dollar of our currency, gold certificates, silver, silver certificates, United States notes, Treasury notes, National bank notes, subsidiary silver, nickel and copper coins, are all redeemable in or exchangeable for gold at the will of the holder. This fixes the stability of our currency. Its value does not and cannot fluctuate. I grant that there is no express statute for the exchange of gold or silver certificates or for silver itself. Silver certificates are, of course, redeemable in silver. Silver certificates are simply warehouse receipts for the number of silver dollars mentioned in the receipt, and on the return thereof the coin can be demanded. But the law expressly provides that the Secretary of the Treasury shall maintain the parity of all forms of money coined or issued by the Government. The only way to make a silver dollar, the metallic value of which is but fifty cents, worth one hundred cents in gold, is to give gold in exchange for the silver whensoever and by whomsoever demanded. On this proposition the record has been made so that subsequent Secretaries of the Treasury for all time, whoever they may be, and whatsoever party they may represent, will find it necessary to overrule the decision of at least one predecessor before he can refuse gold in exchange for silver, and until such refusal silver will remain at par. There being but one way to preserve parity in time of pressure, the best way to avoid a time of pressure is to make public the Government's intention to redeem in gold at all times. Thus all forms of lawful money are exchangeable for gold, and National bank notes are redeemable in lawful money. These provisions make our system absolutely safe, and no man

Silver Redeemable in Gold
--

need look the second time at any form of our circulating medium to discover its actual or exchangeable value."

The Secretary of the Treasury is praised by some financial papers for establishing a precedent for exchanging gold for silver without waiting for any possible period when silver dollars might be at a discount. But, if his action has not prevented any such contingency from ever arising, surely the obligation to exchange gold for silver may yet prove a big burden and a too severe test of the sufficiency of the gold reserve in such another crisis as that of 1893.

However, the Secretary of the United States Treasury when saying that no man need look the second time at American silver coins to discover their "actual or exchangeable value" was not inviting the holders of silver currency to exchange for gold.

The problems of effective bank examination and supervision were discussed by the United States Controller of Currency at the meeting of the American Bankers' Association in October last, and have been the subject of important discussions since that meeting. It is pointed out that the bank examiner can do little or nothing to prevent the acts in violation of law which often lead to ruin. He discovers the wrong after it has been committed. Further, if bank officials and directors should conspire to conceal from the examiner fraudulent acts, he is powerless to prevent the consequent breakdown. Although our branch bank system may, perhaps, afford opportunity for fraud on a large scale, it provides guarantees against the mismanagement of small institutions to which the United States system is liable. The branch of a large bank has its affairs under the effective inspection and control of the central officials, and the bank's own inspectors can probe more thoroughly into branch working than any outside official could do. The relations of the branch to the head office provide a valuable mass of information continuously, and the inspector starts his work in a much better position, not merely to discover past evil, but to prevent mischief, than the United States bank examiner. The Canadian banking system scores on this point, as on many others.

Bank Inspection

The thoughtful and scholarly article by Mr. Lewis must attract attention and is deserving of careful consideration by every good Canadian. It is invigorating in the extreme to

The Cost
of a
Century

read such a sound and eloquent tribute to the growth of the Dominion, and the leading daily papers of the country cannot do better than to quote the utterances of this gifted writer. He presents high ideals of right and honour in a pleasing and inspiring shape, and his plea for a continuance of effort to place Canada in the vanguard of commercial progress is an excellent bit of literary work.

Mr. Lewis says: "Industrial activity is the physical culture of a people; it is essential to national digestion, which is the assimilation of new comers; it makes for clear thinking, which means equitable and honest government; it arouses a compensating demand for the beautiful things of life—for art, music and literature."

The tribute that Mr. Lewis considers is being paid to Canada in the marked diminution of fiscal hostility on the part of the neighbouring Republic and the increasing measure of respect and consideration given by her people to this country is the more acceptable by reason of the writer claiming the United States as the land of his birth.

An ingenious method of defeating the purpose of the laws providing for a "double liability" on bank stocks was mentioned some time since by the *Wall Street Journal*. It consists

Ingenious
if Legal

in the creation of a holding company, with a small capital, to which a capitalist may transfer his bank stocks. The holding company becomes liable for payments under the "double liability" obligation, while the capitalist limits his losses to the amount of stock in the holding company which he possesses. If such a palpable evasion of the valuable provision of the law for the protection of note-holders and other creditors of banks were commonly practised, it would clearly be necessary to devise a plan whereby all real holders of bank stocks might be placed on the same footing, and the intention of the law might be carried out. The matter is one in which Canada is interested as well as the United States.

The yearly report of the Comptroller of the Currency in the United States possesses interest, even for Canadian bankers. The latest report contains the usual recommendation, to which the United States Congress apparently gives little attention. The National Banks are encouraged to expand circulation by additional deposit of Government bonds, but they would seem to be prevented from contracting it, when conditions make such a course desirable. The Comptroller of the Currency refrains in his report from making strong suggestions for any change in the currency system to ensure greater elasticity, but he is known to favour a change. His statement "that the volume of National Bank circulation should be governed by the business needs of the country" was hardly necessary.

Our Neighbours

The Comptroller of Currency favours raising the limit of loans which may be made by a National Bank to any one customer. As this limitation is said to have been unchanged ever since the National Bank Act was formed more than forty years ago, the recommendation of the Comptroller will likely lead to considerable discussion. Already one financial paper, the *Chicago Banker*, is advancing arguments in favour of the change, and says that the legal limit is frequently disregarded, because it is found impracticable to observe it. The paper comments upon this condition of things as follows:—"Laws which it is difficult to comply with and easy to evade have a demoralizing influence, and all statutes should be made reasonable so that they may be effectually enforced." Looseness in law-making is not peculiar to the United States.

The advocates of a properly secured elastic currency under federal control, in their attempts to convince the United States Congress of the necessity for a change, seem to have grappled with a somewhat hopeless task.

A change in the denomination of bank-notes in Germany is probable in the near future. The Reichsbank is seeking power to issue notes of 20 and 50 marks (\$5 and \$12.50 approximately), in addition to the existing 100 and 1,000 mark issues. The Imperial Treasury notes, which are in circulation to the extent of 120,000,000 marks, and which may be likened to the greenbacks of

Bank Notes in Germany

the United States, are to be issued in denominations of 5 and 10 marks only if this plan is accepted. With a growing population and increasing internal trade, there is probably a useful field for increased supplies of small notes, especially in view of the slight development of the cheque system. Though the bill authorizing the change did not pass the Reichstag at the last session, it is hardly likely that it will not be pressed forward again, and successfully, at no distant date.

There are two sides to most questions, and that raised by Mr. R. E. Macnaghten in the article which he has contributed to this number of the JOURNAL is no exception to the rule.

The Cheque— Legal Status of Same	The question raised is whether it would not have been better if cheques had not been given the legal status of bills of exchange. The inconveniences attaching to the actual situation are well set forth in the article, and attention may be called to the advice as to how to make a cheque (or a bill of exchange) non-negotiable.
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On the question of the mode in which the cheque came to be recognized as a "bill of exchange," however, in spite of the eminent legal authority cited, the position may not be as clear as our learned contributor holds it to be. On the history of banking, Macleod was, at least, a good authority. He tells us that cheques and bank notes alike took their origin in England from the deposits given by the goldsmiths to their clients for sums of money deposited with them. These receipts merchants had treated as negotiable, but, in giving judgment on a case involving this point, Lord Holt declared that the endeavour to uphold the negotiability of notes proceeded from the obstinacy of merchants, who were endeavouring to set the law of Lombard Street above the law of Westminster Hall. The consequence was that a statute of 1704 specifically conferred on such notes, whether payable to order or to bearer, the power of being assigned and endorsed "in the same manner as inland bills of exchange are." When, three-quarters of a century later, the London bankers gave cheque books to their customers, in lieu of the notes or deposit receipts previously given, the negotiability conferred on the notes would, it must appear naturally, descend to their successors, the cheques. The confusion deplored by Mr. Macnaghten may, perhaps, be traced, not to legislative

ineptitude, but to the ancestry of the cheque. Incidentally the history culled from Macleod suggests that, should merchants feel that the subject is one of importance sufficient to justify pressing for a remedy, the law of Westminster Hall may once more be made to accommodate itself to the desires of Lombard Street.

Frequent requests are received by the JOURNAL for information respecting bank charters granted during the past five years. A table published elsewhere in this issue shows that,

The Bank Changes of Five Years	during the years 1903-4-5, eleven charters were obtained from the Parliament at Ottawa. Since 1900, five new banks have commenced business, namely, the Sovereign Bank of Canada, The Metropolitan Bank, The Crown Bank of Canada, The Home Bank of Canada, and The Northern Bank.
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During the same period six banks have ceased to exist, namely, the Halifax Banking Company, The Exchange Bank of Yarmouth, The Peoples Bank of Halifax, The Commercial Bank of Windsor, The Summerside Bank, and The Bank of Yarmouth. The first five named institutions were absorbed by other banks, and the fate of The Bank of Yarmouth is too recent to have been forgotten.

The financial difficulties of the Russian Government are reflected in the return of the note-issues of the Bank of Russia. At the beginning of November, 1903, the circulation was about

Russian Paper Currency	309 million dollars. Twelve months later it had increased by 122 million dollars, and again, in the twelve months to November, 1905, it increased
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by an equal amount. These two periods of twelve months are, however, distinguished by a very different movement in the metallic reserves. In the first some seventy per cent. of the note increase was represented in increase in gold held. In the second the gold held increased by less than seven per cent. of the increase in notes. In the first period the holding of silver was approximately unchanged, in the second it has decreased by over fourteen million dollars. The replacement of gold in the circulation by silver and paper is here very clearly shown. The note-issue has attained to figures not reached since the beginning of 1897, and there seems sufficient reason to

doubt whether, should the political situation not speedily improve, a return to the era of forced paper circulation may not be inevitable.

It has, doubtless, appeared a strange thing to those whose training in banking has been received in Canada, that the English banks should neglect foreign exchange business so much as they have done. Attention is being pointedly directed to the fact that an opening has been afforded to foreign banking institutions to develop a business in London which, in course of time, has encroached on the ordinary business of the English banks. Some of the banks in London are now stated to be devoting considerable attention to this branch of business, to the advantage of their customers and themselves alike. It is certainly anomalous that the greatest ship-owning and trading nation in the world, possessing a remarkably well-developed banking organization should permit so much of its exchange business to be handled by non-native institutions. The change, when it comes, will not come too soon.

The last report of the Bank of France contains an interesting item, showing the growing strength of the custom of aiding employees of great corporations to make provision for their old age. Each assistant of the Bank is to be provided with an account in the *Caisse Nationale des Retraites*, and the Bank will pay to these accounts, each quarter, a sum equal to $6\frac{1}{2}$ per cent. of the salaries of the owners of the accounts. The plan of operation of the *Caisse* provides for retirement at the age of fifty-five. The Bank may, however, retain in its service those who are judged to be capable of rendering good service beyond that age, and the postponement of the pension will result in an augmentation of its amount. Assistants, being the owners of the accounts standing in their names, are not deprived of the benefit of the contribution of the Bank should they leave its service before attaining the age of regular retirement. The arrangement has much to commend it.

The gratuitous coinage of gold by the British mint appears to place upon that institution the burden of striking considerably more coins than are needed for use in the British Isles.

**The British
Mint and Its
Operations**

To Egypt and South America together, there was sent in 1904 an amount in sovereigns very nearly equal to the total mintage of that coin in the year.

The receipts of sovereigns from the countries named were little more than the tenth part of what was sent to them. Even if the indirect receipts, as, for example, of sovereigns from Egypt via Germany, are taken into account, there remains a very large net export. The provision of coin, for the use of foreign countries, even if it be only for bank reserves in those countries, is a curious result of the British system of open mints and gratuitous coinage for gold. The loss on the year's operations of the mint was about \$95,000 in 1904, but it is necessary to go back as far as to 1882 to find another year in which the net result of working was a loss.

TABLE OF CLEARINGS.

Comparative Totals of Bank Clearings for the past four years at the cities of Montreal, Toronto, Winnipeg, Halifax, Hamilton, St. John, Vancouver, Victoria, Quebec, Ottawa, and London.

	1905	1904	1903	1902
Montreal	\$1,324,314	\$1,065,067	\$1,113,978	\$1,098,970
Toronto.....	1,047,491	842,097	808,748	809,078
Winnipeg	369,868	294,601	246,108	188,370
Halifax.....	89,252	90,116	93,350	88,532
Hamilton.....	68,386	59,003	53,420	45,965
St. John.....	52,836	51,423	49,013	42,424
Vancouver	88,460	74,030	66,216	54,468
Victoria.....	36,890	33,070	30,818	28,570
Quebec	86,795	79,844	88,329	73,247
Ottawa.....	120,892	106,638	106,084	95,469
London.....	50,430	45,552	42,831	*23,098

* Part of year. (000 omitted)

THE HISTORY OF CANADIAN CURRENCY, BANKING AND EXCHANGE.

SOME INDIVIDUAL BANKS.*

HAVING dealt with the more important phases of the general problem of currency and banking, during the crowded period of Canadian monetary history from 1857 to 1878, it may be worth while to devote a couple of chapters to tracing the fortunes of a number of typical individual banks, a few of which have been already followed through their earlier developments. First of all we naturally take up the Bank of Montreal, so far, at least, as it has not already been dealt with in tracing the history of the larger and more specifically national movements.

The Bank of Montreal, in common with the other banks of Eastern Canada, though feeling quite severely the strain put upon the whole country by the crises which periodically swept the commercial field, managed to withstand the pressure, owing largely to the broad basis upon which its business was done. The banks of Western Canada were at first almost entirely confined to the trade in agricultural exports and the import of manufactured goods. When the milling and railroad interests developed in the west and received such liberal advances from the banks, their business still depended almost entirely upon the agricultural interest. High prices for farm produce induced speculation in farm lands, country towns, mills and railroads, and furnished almost the whole of the rapidly expanding business of the banks. The subsequent collapse,

* Chief sources :

Statutes of Canada, 1861-1878.

The Canada Gazette, 1860-1880.

The Globe, Toronto, 1863-1869.

The Montreal Witness, Monthly Financial Review, 1863-1878.

The Canadian Monetary Times and Insurance Chronicle, Toronto, 1867-1878.

The Leader, Toronto, 1864-1874

therefore, left the banks without any alternative resources. The Bank of Montreal, while heavily engaged in western business, was not so absolutely dependent upon it as the western banks. It had a large stake in the export timber trade of the country, whose fluctuations were quite independent of agricultural prosperity; also in the shipping trade, and in international exchange, directly with New York and Chicago, and, through New York, with Europe. Again, the Bank of Montreal was not so heavily involved in land and railway speculation as the Commercial and Upper Canada banks. Hence, though suffering apparently quite as severely as any of the other banks from the purely commercial aspect of the crisis of 1857-9, yet it made a much better recovery, and was particularly aided by the exceptional prosperity of the lumber trade in 1860.

In 1861 the bank, in accordance with an amendment of its charter, established a guarantee fund for its employees in lieu of the form of security which had previously been required. In this year, also, the bank rapidly developed an extensive field for the employment of its capital and bank-notes, in financing large shipments of produce from Chicago by way of the St. Lawrence route. Other Montreal banks followed in the same line, and in a few months about half a million of Montreal bank notes were in circulation in Chicago and its neighbourhood. Ultimate payments were made in the west through exchanges on Montreal, or on New York at Montreal rates. But in 1861, in view of the troubled outlook in the relations between the northern and southern States, a large amount of gold had been accumulated in New York, and was for the time being at a low rate. Thus, while the Bank of Montreal redeemed its notes in British gold at the legal tender rate of \$4.86 $\frac{2}{3}$ per sovereign, the sovereign was selling in New York at \$4.80 to \$4.81. The Bank of Montreal therefore raised its rates for exchange on New York directly, to 1 $\frac{1}{2}$ per cent. premium, and this had the effect of sending Bank of Montreal notes in Chicago to 2 per cent. discount. Action was threatened by the State authorities under the law of the State of Illinois which denied the privilege of note circulation to any bank whose notes were at a greater discount than $\frac{3}{4}$ per cent. The Bank of Montreal, to save its western interests, opened a regular branch office in Chicago, and undertook the redemption of its notes there on the basis of a direct exchange on New York. The Chicago business of

the bank promised to receive a very extensive development, but the outbreak of the war soon demoralized the western export business, and the passing of gold to a premium led to a speedy return to Canada of all Canadian bank notes in circulation in the United States. .

The disappearance from the banking field of its two chief rivals, the Bank of Upper Canada and the Commercial Bank, left the Bank of Montreal the dominant factor in Canadian financial affairs. The transfer of the Government account to the bank in 1864, and its still closer relations with the Government, entered into in 1866 when it gave up its own note issue and became the Government bank of issue for provincial notes, marked its attainment to undisputed supremacy. If we add to this the effect of the forceful personality of Mr. E. H. King, the general manager of the bank and later its president, we may be able to realize the transcendent influence of the Bank of Montreal in all Canadian financial matters during the Confederation epoch.

At this time, not only the general policy but every new movement of the Bank of Montreal was followed with the closest interest by the other Canadian banks, and with no little trepidation on the part of some of the weaker ones, whose fate it was commonly supposed was often at the mercy of a word from the manager of the great Montreal corporation. But, as often happens, despotic power, no matter how impartially or even benevolently exercised, if regarded with fear and jealousy, is soon distrusted and ultimately hated. Certainly the Bank of Montreal paid for its position of undisputed supremacy in the Canadian banking world, by furnishing a mark for sharp criticism and strenuous opposition on the part of many of the other banks. There would appear to be but little authentic proof that the bank exercised its power to the wilful injury of its rivals, although it certainly looked well to its own interests and occasionally used its influence for the regulation of the banking practices of its rivals. Also, as we have seen, it undoubtedly directed the policy of the Government with reference to the banking system of the country. It was rather the tone of its attitude toward the other banks, than the character of its practical policy towards them, which developed such a bitter opposition, and induced a combination among the other banks for the defeat of its measures.

It was, however, through its connection with the business of international exchange on the New York market, that the Bank of Montreal, under Mr. King's leadership, attained such phenomenal success and exalted its prestige alike at home and abroad. The growing difficulties of the United States Treasury and the declining exports of the country, in the face of the enormous expenditure which the enlarged scope of the Civil War entailed, had the effect of draining the country of gold, and of frequently forcing that metal to a high premium. The Bank of Montreal had for many years been one of the leading dealers in exchange in New York. Its connections were well established, and as an outside institution with Government connection and other large resources in Canada, as well as excellent credit in London, it enjoyed a unique advantage on the New York money market. Under Mr. King's management, instead of dealing through agents as before, it established an agency or branch of its own in New York, and thus became a resident factor in the New York market. As a consequence of the abolition of the branch bank system in the United States, none of the individual banks were particularly strong, or developed much independent business beyond their centres of location. As a result, almost none of them dealt in foreign exchange, which was left to a few private houses specializing in that line, and the agents of a few London dealers, notably the Rothschilds and Barings. The largest single house making a specialty of international exchange was that of Brown Bros., whose capital was estimated at twenty millions. Apparently next to them came the Bank of Montreal, at least during the period from 1867 to 1872. The Bank of British North America, having special facilities for such business, was also a prominent dealer, though hampered by its proverbial caution. These two were the only Canadian banks, up to 1870, having regular agencies in New York, although all the others had correspondents there.

Not only did a man of Mr. King's self-confidence and ambitions in high finance, derive much personal satisfaction from fishing in the troubled waters of the New York gold and exchange markets, but the losses which the Bank of Montreal, in common with the others, had sustained in its western Canadian business, inclined him the more to withdraw much of the bank's funds from the regular Canadian market, and employ

them in the more ambitious, and, for him, more profitable field of dealing in gold and foreign exchange in New York. In 1867 Mr. King stated that his own bank, during the previous three years, had written off bad debts in western Canada alone, to the extent of a million dollars.

The withdrawal of so much of its funds from the Canadian field naturally gave rise to loud complaints against the Bank of Montreal, especially from those who found themselves not a little embarrassed and their business considerably crippled owing to the withdrawal of the accommodation to which they had been regularly accustomed. Nevertheless, the change was exceedingly profitable for the Bank of Montreal and its shareholders. The great enhancement of its credit also attracted depositors, not only in Canada, but among those Americans, especially from the Southern States, who were seeking to place their reserve funds beyond the peradventure of war. From the nature of the business which it was doing the Bank of Montreal held a great part of its capital in readily available forms. Hence, whenever, from time to time, the Canadian market afforded a special opportunity to employ some of its capital in profitable dealings, the bank was always ready to take advantage of the situation. Such a policy, however, brought down upon it the criticism of the other banks, who, as some of them pointed out, were constantly employing their funds in support of the slow and customary business connected with the regular trade of the country, which the Bank of Montreal had renounced; but when a rare opportunity was presented for a rapid and profitable turnover of funds, the larger bank stepped in with its fluid resources and took the cream off the business. From this it was but a step to accusing the bank of employing its power and influence to furthering its own interests by artificially embarrassing its Canadian rivals. The particulars, however, of these passages at arms belong rather to the stories of the individual banks than to that of the Bank of Montreal itself.

In estimating the criticisms to which the bank was subjected, especially from 1865-1870, it is to be remembered that as it was the Government bank, and became the special agents for the issue of provincial notes, under Galt's plan for a Government paper currency, it naturally came in for its full share of the strong and even violent criticism which that measure met

with on the part of the western banks, and which was eagerly taken up and improved upon by the political opposition. Nevertheless, when the bill had passed and the Bank of Montreal began the task, at first considered doubtful if not impossible, of issuing and maintaining in circulation the Government notes, it was found that the Bank of Montreal was able to make private arrangements with the leading banks, those of the west among the number, for holding a special amount of the new provincial notes without sending them in for redemption, and thus secured a fair test for the scheme, which contributed much to its ultimate success.

During the sixties, Mr. T. B. Anderson was President of the Bank of Montreal. Apparently never a man of exceptional force of character, he was at this time past the prime of life, and whatever his contributions in the past towards the general enhancement of the power and prestige of the bank, they were quite overshadowed at this time by the more striking personality and achievements of the general manager.

At the time the Bank of Montreal became the Government agent it was paying dividends of 6 per cent. on six millions of capital. After 1864 the bank rapidly built up a rest or reserve fund. In 1866 this amounted to \$950,000, of which \$250,000 had been added during the financial year ending July, 1866, the bank having made a net profit of 13 per cent. This rose in 1868 to 15 per cent., out of which a dividend of 10 per cent. was paid and the reserve fund was increased to \$1,500,000. The following year the net profits of the bank amounted to no less than 18½ per cent., out of which a dividend of 11 per cent. was paid and \$500,000 carried to the reserve fund, bringing it up to \$2,000,000. This is significant of the growing tendency shown by several of the Canadian banks, and ultimately forced on all of them, to make this phase of banking capital an important feature in the Canadian system. Though the directors warned the shareholders that they could not expect the continuance of such high rates of profit, yet the following year, 1870, the bank, after paying a dividend of 11 per cent. with an additional bonus of 2 per cent., carried \$1,000,000 to the reserve fund, making it \$3,000,000, equivalent to one-half the capital of the bank. Meantime the price of the bank's stock had risen to 222.

In accordance with its functions as the Government Bank

of Issue it became necessary for the Bank of Montreal to open branches in the Maritime Provinces after Confederation, and thus was begun the practical realization of a uniform currency and banking system throughout the whole Dominion.

In 1868 the Board of Directors of the bank consisted of Messrs. T. B. Anderson, T. E. Campbell, G. W. Campbell, E. M. Hopkins, J. G. Mackenzie, Peter Redpath, Henry Thomas, David Torrance, and the Hon. Thomas Ryan.

At this time the public distrust and criticism of the bank was particularly marked in western Canada. The association of Mr. King with Mr. Rose in his national bank measure was the occasion for dragging into publicity and embellishing for political effect several incidents connected with Mr. King's speculative operations on the New York money market. A circumstantial story, given in the leading New York papers, told of how the Bank of Montreal, after acquiring command of a large percentage of the available gold on the New York market, ostentatiously sent a considerable portion of it down to a steamer leaving for London, much to the dismay of the market and the sudden elevation of the rate for gold. The gold, however, was afterwards returned to the vaults of the bank under cover of darkness, and was disposed of at a considerable premium on the following day. Certain it is that numerous, though often bitter tributes were paid to the power of the Bank of Montreal by New York papers, which attributed several of the periodic crises on the New York gold market to the operations of the Bank of Montreal. As usual, such transactions were righteously denounced by those whose speculative ventures had gone astray.

Naturally the great profits of the Bank of Montreal on the New York market tempted some of the other Canadian banks to follow its example, and in the latter part of 1870 it was estimated that the Canadian banks were employing about ten million dollars in gold upon that market, which was about one-half the available supply. Their common practice was to lend the gold at the market rate, which, of course, was quite independent of the rate for ordinary money. They took as security greenbacks at a margin of 10 per cent. on their current value. These, in turn, they loaned on call, or short notice, upon gilt-edged securities, at the prevailing rates for currency; they thus obtained two profits on their capital. The rate for gold varied

from 1-64 to $\frac{1}{2}$ per cent. per day, which meant from 6 to 180 per cent. per annum. Occasionally, even these rates were exceeded. On the 29th of October, 1870, the rate was as high as 11-12 per cent. per day, until Monday the 31st. In consequence of having exacted or obtained something like this rate, as it was alleged, an action was brought against the Bank of Montreal for violation of the usury laws; but in the end the charge was dropped. Nevertheless, the stringency of the gold market in New York continued, and from time to time during 1871, and especially in September, rates rose to high percentages. At such times the old question recurred, Were the high rates due to manipulation of the market by the dealers in exchange and gold, or was it the unusual demand of the market which caused the rates to advance. The New York papers were, as usual, loud in their condemnation of Mr. King and the Bank of Montreal, but the bank, for its part, claimed to be doing but an ordinary business, lending gold at seven per cent.

The connection of the bank with the Government was evidently the source of no small profit to it. Thus we find that the bank received from the Government for various services, the following sums, during four years; 1866, \$145,640.84; 1867, \$238,341.36; 1868, \$467,732.55; 1869, \$293,319.14. These payments were chiefly for interest on loans, premiums on exchange, allowances for suppression of the bank's note issue, and commissions on the management of the of the Provincial notes. Some of the latter services appear to have been connected with loans raised for the building of the Intercolonial Railway. A great deal of the money was borrowed in advance, and was held on deposit by the Bank of Montreal at a low rate of interest. To these large sums the bank was indebted, through its power of drawing exchange, for the exceptional command which it held over the New York market. The Intercolonial loan, therefore, was profitable to the Bank of Montreal in more ways than one.

In the latter part of 1869, after the failure of the banking scheme of Mr. Rose, of which Mr. King had been the recognized author, the latter retired from the position of general manager of the Bank of Montreal, and became its president. He was succeeded as manager by Mr. R. B. Angus, whose appointment seems to have given very general satisfaction.

In 1870 the Red River district was attracting considerable attention. In the latter part of that year negotiations were in progress for the establishment of a bank at Fort Garry in the Government interest, and it was understood that the agency would be given to the Bank of Montreal. Up to that time accounts in the Northwest generally, and in the new Province of Manitoba were kept in sterling in accordance with the usages of the Hudson's Bay Company. But with the establishment of the bank that were to be changed to the decimal basis of dollars and cents, to conform with the general system of the Dominion.

In 1870 also, the Bank of Montreal opened an office of its own in London, England, in order to facilitate its rapidly increasing actual and prospective business there. In the latter part of the year a special meeting decided to apply for an amendment of its charter in accordance with the new Bank Act, and incidentally to obtain the right to extend its capital to ten millions. No extension of capital however was made for a couple of years.

The stringency of the New York money market in 1871 was naturally reflected in Canada, as also the attacks upon the Bank of Montreal and its president, Mr. King. He was flattered with the accusation that he had directly caused a crisis throughout the Canadian money market on account of his having stripped it of funds in order to furnish his branch in New York with the means for speculation. It was pointed out that the bank held deposits from the Government to the extent of ten million dollars, as well as deposits from others banks, chiefly outside of Canada, to the extent of another ten millions. The familiar plea was raised that the money deposited in Canadian banks should be almost entirely employed in Canada. It is, however, vain to attempt to prevent money from being loaned to advantage in adjoining countries, for if the banks do not take advantage of the latter rates beyond the country their customers certainly will. The real trouble, as usual, was that many Canadians had been smitten with the new mania for stock speculation, which was itself largely the outcome of the recent bank profits. In the latter part of 1871 there had been a collapse of values on the Montreal and Toronto markets, which ruined not a few budding speculators, and for a time, severely checked credit.

After the passing of the general Bank Acts of 1870-71, and the making of new provisions for the Dominion notes, including the establishment of offices of the Receiver-General in each of the Provinces for the issue and redemption of Dominion notes, the more intimate connection between the Government and the Bank of Montreal ceased. That bank came under the new Bank Act on the same terms as any other bank, and consequently resumed its own note issue. In the meantime several of the newer banks were rapidly rising to such financial importance as to minimize the relative superiority of the Bank of Montreal. Losing its special character and Government influence, and becoming merely a leader among equals, the old feeling of animosity toward the bank gradually disappeared. People came to regard with self-complacent national pride an institution which soon expanded to double the proportions which it had while it was the general object of fear and jealousy.

In 1872 the capital of the bank was increased to eight million dollars, most of it being taken up by the shareholders, to whom it was offered at the nominal valuation of \$200 per share. In the following year it was increased to twelve million dollars, and those shareholders who were unable to subscribe for their allotted proportion received the value of the market premium on the shares which they did not take up, and which amounted altogether to \$576,936. A change in Government in the Dominion and in the Province of Ontario, resulted in a withdrawal of \$3,600,000 of deposits, during the financial year ending June 2nd, 1873. At the annual meeting in 1873 it was announced that Mr. King was retiring from the presidency and severing his connection with the bank. In common with the other financial institutions of this country and of the Continent, the Bank of Montreal made little progress during the later seventies; its business, however, revived with that of the country, and continued to be much more normal and uneventful than during the stirring period of Mr. King's leadership.

The disasters which overtook the Bank of Upper Canada and the Commercial Bank, and the withdrawal of a large part of the funds of the Bank of Montreal, left a field in western Canada to be occupied by a number of new banks, which rose with returning prosperity and rapidly expanded during the later

sixties and early seventies. Prominent among these new institutions was the Canadian Bank of Commerce.

It may be recalled that the Bank of Canada had received a charter in 1858, and that among its promoters were some of the most prominent public men of the time, such as Hon. Wm. Cayley, then Finance Minister, Hon. J. C. Morrison, Angus Morrison, Hon. J. Ross, Wm. H. Bolton, and Fredk. Cumberland, all of the city of Toronto. The authorized capital of the bank was placed at \$3,000,000, in shares of \$50 each, \$250,000 to be paid in on beginning business, and another \$250,000 within eighteen months. Otherwise the Act was in the usual terms of the period. However, in common with several more questionable ventures, it appeared upon the scene at a most unfortunate juncture. When it was being launched the country was in the throes of the crisis of 1857-8. Hence, despite its strong backing, it could make no substantial headway, and was forced to lie dormant for some years. In 1863 the provisional directors sought to obtain an amendment of its charter, authorizing them, among other things, to open books for subscription to the stock in London, England; but the bill never got beyond the preliminary stages. The following session, an amendment to the Act of incorporation was again sought, but without success. Still another attempt failed in the second session of 1864. The next we hear of the institution is in 1866, when we find a petition presented to the Legislature, by the provisional directors of the bank, for an amendment to their Act of incorporation, and a change of the name from the Bank of Canada to that of the Canadian Bank of Commerce. The bill introduced for this purpose finally passed as 29 and 30 Vic., c. 88. It provided that the Act of incorporation of the original Bank of Canada should form the charter of the Canadian Bank of Commerce. The capital, however, was reduced to \$1,000,000, and the bank was permitted to begin business when \$400,000 had been subscribed and \$200,000 paid in. .

The remarkable animation which was suddenly infused into the dormant charter of the Bank of Canada, found its explanation in the fact that it was just at this juncture, in the early part of 1866, that the Bank of Montreal adopted the policy of withdrawing its accommodation from western Canada. This movement was strongly opposed by the Hon. Wm. McMaster, of Toronto, the local director of the Bank of Montreal, and

his views were shared by Mr. H. S. Strathy, the manager of the Toronto branch of the bank. As a consequence of the bank's change of policy, these gentlemen withdrew from that institution, and, in common with a number of other wealthy and influential citizens of Toronto and other western towns, determined to start a new bank. Finding the charter of the Bank of Canada going a-begging, they took it up and had it amended to suit their purposes. Thus did the Canadian Bank of Commerce start upon an interesting career, marked by vigour and success from its commencement. The Hon. Wm. McMaster was the first president, and Mr. H. S. Strathy the general manager. Within the first year of its existence it had opened branches at London, St. Catharines, and Barrie, and was preparing to open another at Guelph. By the end of 1868 the paid-up capital of the bank amounted to \$984,261, while the notes and deposits were \$3,036,250, and its loans \$2,718,796. At the second annual meeting in 1869, owing to the rapidly increasing business of the bank, it was found necessary to increase its authorized capital from one to two millions. During the year it had made a net profit of fourteen and a half per cent., and, after paying a dividend of eight per cent., added \$60,000 to the reserve fund, making it \$100,000. The progress of the following year was even more remarkable. At the beginning of the year the paid-up capital was one million, and at the close it was a little over two millions. The profit for the year amounted to \$336,536, and, after paying a dividend of eight per cent., \$150,000 was added to the reserve fund.

During the year 1869 the Canadian Bank of Commerce absorbed the Gore Bank. And thereby hangs a tale, which in many respects is but a minor version of the tragic fate of those confiding souls who managed the Commercial and Upper Canada banks, and whose cheerful optimism with reference to the inevitable prosperity of their own country, may have done honour to their patriotic sentiments, but did not flatter their intelligence, leading to disasters alike for themselves, the banks which they managed, and the country at large.

For many years the Gore Bank had shared with the Bank of Upper Canada and the Commercial Bank the honour of representing the chartered banking institutions of Upper Canada. That its downfall was not so rapid or so complete as in the case of its larger associates appears to have been due to its

more limited opportunities for indulging in high finance,—limitations which were much regretted at the time. When the Commercial Bank collapsed in 1867, there was a strong run upon the Gore and Royal Canadian banks stimulated by the withdrawal of confidence in their note issue by the Bank of Montreal. However, the other western banks, chiefly, it would appear, from the fear of the effect of any further collapses, upon the public mind at that critical juncture, came immediately to their rescue, and tided them over the crisis. The Gore Bank, like the Commercial, was by no means bankrupt, from the point of view of the relation of ultimate assets to liabilities. Nevertheless, holding many securities on which it could not immediately realize, it could not maintain the position of a bank capable of indefinitely paying on demand. In consequence it naturally lost public confidence, people withdrawing their deposits to large amounts. It was forced to seek assistance from the Bank of Montreal and several western banks, by pledging with them the best of its remaining securities.

Investigation in 1868 showed that while the institution was still ultimately solvent it had lost its reserve fund and about one-third of its capital, evidently due to bad debts and careless management. These losses not having been acknowledged in its previous reports, there was an inevitable loss of confidence in the institution when the matter became public. The shareholders at the annual meeting of 1868 replaced all the old directors but one, and appointed a committee to examine the affairs of the bank. At this time three of the six agencies of the bank, those of London, Guelph, and Paris, had been closed, and of the three others, at Simcoe, Galt, and Woodstock, the latter was found to have been badly managed, ending in fraud on the part of the agent. Some of the shareholders favoured winding up the institution, and a few recommended amalgamation. The great majority were in favour of continuing the bank on the old lines, and also rejected the proposal to change the name to that of the Bank of Hamilton. The experience of another year, however, during which the three remaining agencies were closed, convinced all parties that the institution could not regain its credit and business. Hence the directors were authorized to consider proposals for taking it over by some other bank. Two offers had been made for it, one from the Bank of Montreal, the other from the Canadian

Bank of Commerce. After a sharp contest between them, the offer of the latter was accepted by the directors, and the agreement confirmed by the shareholders, the transfer taking place on the basis of fifty-five cents on the dollar of capital. An Act of Parliament was passed in the spring of 1870 giving effect to the agreement between the two banks, and at the annual meeting of the Bank of Commerce in July, the management was able to report that the assets of the Gore Bank had been practically assimilated and the expectations of the directors realized.

In the act providing for amalgamation with the Gore Bank, the authorized capital of the Canadian Bank of Commerce had been increased to four million dollars, and in July, 1870, \$2,036,765 had been paid up. The directors advised that a further issue of \$300,000 be offered to the shareholders at a moderate premium.

From the beginning the Bank of Commerce had as its special object the employment of its funds in moving the crops of the country. As this involved a great many transactions with and through Montreal, the bank undertook, in 1870, to establish a branch there, which was placed under the management of Mr. J. G. Harper. At this time, the Board of Directors consisted of the Hon. Wm. McMaster, President; H. S. Howland, Vice-President; T. S. Stayner, Wm. Elliott, Geo. Taylor, Wm. Alexander, and Thos. C. Street, M.P. During 1871-72 the business of the bank continued to develop very rapidly, in accordance with the general prosperity of the country, and the capital was being constantly expanded. The authorized capital was increased to six million dollars, while the paid-up capital had increased to \$4,748,334, and the reserve fund amounted to one million dollars. The general business with New York was found to necessitate the opening of a regular agency in that centre, through which they could more effectively look after shipments on which advances had been made and also facilitate transactions in exchange. The Board of Directors had also changed slightly, Mr. Wm. Alexander had dropped out, and Messrs. F. W. Cumberland and Robt. Wilkes were added.

Within the following two years the paid-up capital of the bank had reached the full amount of six million dollars, and the reserve fund had increased to \$1,800,000. The annual dividend for 1874 was nine per cent, notwithstanding that the

tide of prosperity had already turned. The work of the head office having increased so largely, Mr. Jas. S. Lockie, previously inspector, was made local manager; while Mr. W. M. Anderson was made general manager, Mr. Strathy having retired from the bank. Among the new names on the board of directors were Jas. Michie, elected in 1873, and N. Barnart and A. Hope (Hamilton), elected in 1874. Mr. Robt. Wilkes, M.P., succeeded H. S. Howland, as Vice-President.

During the period of stagnation in the later seventies the bank naturally reflected the general depression, yet managed remarkably well to hold its own, paying eight per cent. dividend, but adding little to the reserve fund, which increased only \$100,000 between 1874 and 1876. With returning prosperity the bank shared fully in the increasing business of the country, and resumed its steady march of expansion.

Another bank which experienced an unusually rapid development during the period under survey, was the Merchants Bank, with headquarters at Montreal. This bank was first chartered in 1861 (24 Vic., C. 39), with an authorized capital of \$2,000,000. It was found, however, that the financial outlook was not favourable for the successful promotion of such an enterprise. An Act of the following year extended the time for complying with the conditions of the charter, and this was still further extended by another act of 1863, which also reduced the sum to be paid in before beginning business, from \$200,000 to \$100,000. Finally, in another amendment act of 1864, it was provided that, after one million of the authorized capital of six million dollars had been paid in, no specified time should be required for the subscription and payment of the remainder, but that this should be left to the discretion of the directors. Among the capitalists of Montreal who were at the back of this new enterprise were Messrs. Allan, Edmonston, Harrison, Stephens and Renaud. By the middle of March, 1864, \$750,000 had been subscribed, and the organization of the bank was proceeded with. The first general meeting of the stockholders was held in the beginning of May, at the office of the Bank in Place D'Armes, when the following gentlemen were elected directors: Hugh Allan, president; Edward Atwater, vice-president; D. Masson, Hon. Louis Renaud, W. F. King, And. Allan, and Adolph Roy. Mr. Jackson Rae was the first general manager.

During the summer of 1864 there was a considerable stringency in the money market. In August the Bank of England rate ranged from seven to ten per cent. The Merchants Bank offered special inducements to depositors by advertising that it would allow interest on current deposits of \$500 and over. This new departure in Canadian banking roused the ire of the Bank of Montreal, which regarded such action as unprofessional. Mr. King decided to teach the newcomer a sharp lesson. The Bank of Montreal had bought a quantity of exchange in New York at very favourable rates. Some of it was brought over to Montreal, and sold at one-half to one per cent. lower than the current rates there. The customers of the other banks naturally bought this exchange, giving cheques upon their banks for it; in this way the Bank of Montreal acquired a command upon several of the other banks. It had accumulated paper against the Merchants Bank to the extent of \$260,000 to \$270,000; payment was then demanded at two and a half hours' notice. As the Bank of Montreal had just become the financial agent of the Government this action led to some of the first outbursts of criticism on its methods. Mr. King justified his action to the directors of his bank on the ground of the unusual practice of the Merchants Bank in undertaking to grant interest on current deposits. By seeking in this way to attract business from the other banks, the Merchants was introducing what he considered unsafe banking methods, inasmuch as it was attempting to build up a large business on funds which were liable to be called for in gold or its equivalent at any moment. His action, therefore, was simply intended to afford the Merchants Bank a practical illustration of what might happen at any time under such a system.

Mr. King's method of instruction was no doubt eminently practical, but it could hardly be considered as well meant, and it was evidently taken in the spirit in which it was given. The Merchants Bank certainly did not accept the instruction meekly; on the contrary, it was fired with a determination to prove the enterprise and capacity of its management. As events revealed, its purpose was pursued with more zeal than discretion.

When the Commercial Bank suspended, and its subsequent fate was hanging in the balance, the management of the Merchants Bank realized that here was an opportunity for coming

into the front rank at one stride. Negotiations were opened and soon reached a successful conclusion, with the result that in 1868 the Merchants Bank took over the estate of the Commercial Bank at one-third of its nominal value. It came to light some years afterwards that no regular valuation of the property of the Commercial Bank had been made. It was simply accepted in the aggregate on a rough estimate. This was ominous for the future, and indicated that the management of the new bank was more enamoured of quantity than of quality. Through the agencies of the Commercial, the Merchants Bank secured an extensive connection throughout Ontario.

By the end of July, 1868, the bank had practically three millions of paid-up capital, and, judging from the bank returns, it held the third place among Canadian banks, the second place being occupied by the Bank of British North America, which was not strictly a Canadian institution.

In 1869, the business of the Merchants Bank, though involving considerable losses on some accounts, afforded a net profit of nine per cent., out of which was paid a dividend of eight per cent. and the remainder was added to the rest fund, making it \$700,000; rather a small amount in proportion to the capital. At the annual meeting in 1869 the directors announced their intention of increasing the capital to the full limit of \$6,000,000, only \$4,000,000 having been previously offered for subscription and taken up. Since the new stock was offered to the previous shareholders at par, it was expected to be readily taken up, as, under the speculative condition of the stock market, nearly all bank stocks were then considerably above par. At the time of the announcement by the directors the stock of the Merchants Bank stood at 111, but it immediately fell to 105, on the prospect of so large an increase of the supply. The paid-up capital was then \$3,585,426.

This rapid expansion on the part of so young a bank appeared to some rather questionable policy, being too evidently indicative of a determination to rival the Bank of Montreal. By the time of the next annual meeting, July 4th, 1870, the paid-up capital had increased to \$5,078,793, and the reserve fund was augmented by \$100,000, making it \$800,000, still a small proportion to the paid-up capital. The nominal business done by the bank was indicated by deposits to the amount of

\$4,628,383, and discounts to the extent of \$9,280,391. Bad debts were written off to the amount of \$100,000. The liquidation of the assets of the Commercial Bank were reported as progressing so favourably that there was a prospect of realizing a profit of \$750,000, yet subsequent events proved that the shoe was undoubtedly upon the other foot. The management was still opening new branches in Ontario, the total number now standing at twenty-four. Owing to the rapid increase of business the directors had determined to erect a new banking-house for the head office, on the lot formerly belonging to the Commercial Bank.

By the first of June, 1871, the paid-up capital of the bank had increased to \$5,590,186, which at last placed the Merchants Bank above that of British North America, and, as far as capital was concerned, very nearly on a level with the Bank of Montreal, whose capital still remained at six millions.

In several other respects the Merchants Bank was apparently demonstrating, amid the dangerous, stimulating applause of the many enemies of its ancient and autocratic rival, that there might be more than one Napoleon of finance in Canada, though too busy as yet to dream of St. Helena. To fully realize its ideal, the Merchants Bank must open its own office in New York, and undertake speculations in gold, currency, and exchange. It must also have its own branch in London, England, and undertake, if possible, the financing of Government loans. This opportunity came in the shape of a loan for the Province of Quebec. In view of these developments several of the newspapers were inclined to throw up their caps, proclaiming that at last the Bank of Montreal had met with an adequate rival.

The report of the bank for 1872 was very optimistic; the number of branches was steadily increasing, but the demand for new ones as steadily continued. There were no clouds on the financial sky; on the contrary, there was promise of much addition to the prosperity of the country through the undertaking by the Government of extensive public works. The directors, therefore, proposed to extend their capital from six millions to nine millions, the Bank of Montreal having just increased its stock to eight millions. The new stock was to be offered to shareholders in proportion to their holdings of the previous

shares, and at a premium of ten per cent. During 1873 prosperity and expansion, outwardly at least, were unabated. New capital was coming in, branches and agencies were steadily increasing in number until they reached a total of forty-one.

The annual meeting of 1874 was the first held in the new head office. The directors were still most optimistic, for though business had been slightly dull of late their hopes were still resting on the large amount of Government money to be distributed through the expenditure on public works. Of the new capital issued in 1872, a small amount remained unsubscribed, and this was to be offered to the public. The first note of discord, as indicative of coming trouble, was sounded by Mr. John Crawford, who observed that the circulation and deposits of the bank were not keeping pace with the increase of its capital. This was a feature, however, in which the Merchants Bank was not alone. A number of banks, and especially the newer ones, had found it difficult to resist the demand of the shareholders for new stock, which, being issued at considerably lower values than the market rates, afforded a tempting opportunity to realize a handsome margin on the sale of the shares. Mr. Crawford also doubted the wisdom of raising the last half-yearly dividend to five per cent. in the face of the existing business outlook. He made some inquiries as to the bonds of the Detroit and Milwaukee Railway, of which nothing had been heard in the report. These disturbing questions had the effect of revealing the bank's closet skeleton, inherited, it will be remembered, with other *damnosae hereditates* from the Commercial Bank. The chairman explained that there were two classes of these bonds, one of them quite good, and the other doubtful; the latter amounted to \$1,250,000, and upon these no interest had been paid for the last year and a half. Sir Hugh Allan was still president of the bank, and Hon. John Hamilton, vice-president, with little change in the directorate.

As the outlook did not improve, either in Canada or the United States, the weak points in the business and investments of the various banks continued to reveal themselves, with more or less disastrous consequences for a number of the less carefully managed institutions. By 1876, the doubtful character of the Detroit and Milwaukee Railway bonds held by the Mer-

chants Bank had passed into a certainty of their being so greatly depreciated that the bank management had agreed to accept a new issue of bonds at a reduction of eighty per cent. Meantime the deepening depression in trade began to reveal many weak spots in the hasty erection of so large a financial structure as the Merchants Bank, with its nine millions of capital, its forty branches, and its New York and London offices. Once rumours, backed by circumstantial evidence, began to get affloat in an atmosphere already charged with commercial and financial disaster, they rapidly propagated themselves. The shareholders of the bank becoming alarmed held an informal meeting in February, 1877, at which various matters were ventilated which revealed a most unsatisfactory condition of affairs, but otherwise cleared the air for a time. Immediately afterwards the general manager resigned, and later the president of the bank retired, the vice-president, Hon. John Hamilton, taking his place.

It happened that Mr. George Hague, under whom, as general manager, the Bank of Toronto had built up such a solid financial structure, had just retired from that institution. The directors of the Merchants Bank at once applied to him to undertake the management of their bank. After making a general survey of its affairs Mr. Hague agreed to take the position for a term of years. He immediately entered upon a very careful investigation of all the business of the bank and its branches. His report frankly revealed the existing position of the institution, indicating the necessity for a thorough revision of its system, the cutting out of the dead wood, the reduction of the capital, and the facing of the future in a reduced but sound condition. His investigations and recommendations formed the basis of the report of the directors at the annual meeting of the bank in July, 1877.

In the previous February the following losses had been written off:

Detroit and Milwaukee bonds.....	\$305,196.74
Losses at Branches	222,611.14
Losses in Montreal	113,143.65
Total.....	\$640,951.53

As the result of the examination undertaken by Mr. Hague it was determined to write off these further amounts:

Hopelessly bad debts	\$633,000.00
Losses on doubtful securities.....	553,000.00
Losses on gold and exchange dealings in New York	198,704.00
Losses in connection with floating Quebec Govern- ment loans	223,991.00
Further reduction on Detroit & Milwaukee securities	300,000.00

It was found also that a large amount was locked up in real estate and other securities, which would require considerable time for realization, and which in the meantime would not yield interest or be available for banking capital. Hence, in view of future possibilities, it was thought advisable to set aside a fund of \$750,000 to meet any contingencies.

These losses and levies, after devouring the one million of reserve fund and a contingent fund of \$109,339, still presented a deficit of \$2,026,256, which had to be deducted from capital. This reduced the capital of the bank to about \$6,250,000, which meant a reduction on the par value of each share from \$100 to \$75. It was therefore resolved to petition Parliament for an Act authorizing this reduction. The office in London was to be closed at the end of the year; the speculative business in New York was given up; several Canadian branches had already been closed, and a number of others were to be wound up as soon as convenient.

When the retrenchments and reforms suggested by Mr. Hague had been carried out, the Merchants Bank found itself in a fair condition to meet the needs of the usual revival of trade after a period of exceptional depression. The future career of the bank, if less ambitious and spectacular than its former state, certainly justified Mr. Hague's estimate of its capacity to support a sound, profitable, and fairly extensive business.

ADAM SHORTT.

THE COST OF A CENTURY.

IT is an axiom among nations as well as among housewives that certain diseases are inseparably associated with certain periods of development, in fact are not only associated with them but are essential parts of the training which each period represents as preparation for the next succeeding. Of recent years the assaults of medical opinion have somewhat shaken the domestic belief, it having been demonstrated by living examples that chicken-pox and measles are not fundamentally necessary for success in statecraft, nor mumps and whooping-cough for eminence in law or finance, but the body-politic still suffers from the general credulousness as far as it is concerned. The general public insists on the efficacy of the legislative pharmacopeia for diseases of the state partly because, since the first days of medicine, it has been easier to administer a black draught than to enforce the laws of hygiene, and partly because the fascination of "prescribing something" is necessarily more potent when all one's neighbours are affected than in the case of a single individual. If the political economist shared more of the qualities of the family physician, perhaps this would not have occurred, but we have, unfortunately, not yet accustomed ourselves to look on economists except as necessary adjuncts to the Higher Education — more practical than poets, more æsthetic than ward-healers, but neither possessing the confidence nor sharing the confidences of the business world.

If we accept for the sake of argument, that national life is, roughly, a recurring cycle of three phases, the moral, the commercial, and the æsthetic, it is necessary to make this distinction between its physiological afflictions and those of mankind — nations are troubled with distempers rather than diseases, are punished for their own errors and indiscretions rather than made to suffer for those of others. The distinguishing maladies of each epoch are largely caused by the unintelligent, disproportionate exercising of one set of national functions at the expense of others. In the argot of to-day, we are con-

tinually "overplaying our hands"; our forefathers did it — that much we know from history — and it is a safe deduction that our descendants will continue to do it. To carry out the simile, it is human nature to forget that the deal will not end with one generation or with any definite succession of generations; the veriest tyro knows that it is risking the game to play for one hand.

That Canada is rounding into her period of lusty, full-blooded commercialism is shown as clearly by the appreciation of our neighbours as by internal evidences. Sir Wilfrid Laurier has proclaimed that the twentieth century is to be Canada's as the nineteenth was that of the United States, and the phrase promises to become the first slogan of our invigorated national life. The conquest of a century, however, is a much more ambitious aim than has ever before been consciously and definitely placed before a people; centuries being the nearest-to-comprehensive links between time and infinity, partake of the nature of both the real and the ideal, the practical and the unattainable. In the fifty or so of whose record fragments survive, only a scant dozen have been stamped as memorable by the ineffaceable achievements of one nation. We are still too near the nineteenth to read its lettering or to understand its significance if we could read it, but whether or not the judgment of the ages awards it to our republican neighbour we can at least enter upon our self-appointed task of subjugating the next hundred years with a fairly clear idea of what the attempt has cost and when and how that cost must be paid. For, naturally, the conquest of a century being an infinitely greater thing than the conquest of a country, means a heavy charge against a people's resources, a charge, perhaps, to be paid in the sacrifice of luxuries by the few that there may be a lessening lack of necessities among the many; perhaps in the yielding of private interest to public welfare; perhaps in the suffering and sorrow of that awful readjustment of distorted conditions which we call civil war. Whatever form the obligation takes, it must be paid in full; the Future will see to that.

Industrial activity is the physical culture of a people; it is essential to national digestion, which is the assimilation of newcomers; it makes for clear thinking, which means equitable and honest government; it arouses a compensating demand for the beautiful things of life,—for art, music and literature.

Commercial competition is to-day's expression of a red-blooded ancestry, as normal as jousting or crusading, burning witches or sacking churches were some centuries ago. Active commercialism is stimulating for much the same reason as a Donegal shindy, there being, for spectators, little protection and less consideration. "Da lusori locu," the Romans phrased it, which may be freely translated, "If you can't play the game, don't block the tables."

For a great many years, Canada suffered the young giant of a Republic to crowd and jostle and elbow her; then Canada also went in for the new form of physical culture and the crowding, jostling and elbowing began to hurt less and to stimulate more. Shortly after, it ceased to be a punching-bag performance, and about that time it dawned upon the republican intelligence that Canada was entitled to some measure of respect and consideration. There was a marked diminution of fiscal hostility, a sudden but gratifying recognition of the desirability of commercial concord and, as tangible evidence of the new order of things, sporadic agitation in widely separated districts for an undefined and little understood relationship known as "reciprocity." In a word, the more power Canada began to put into her blows, the more willing was the United States to increase, by amicable arrangement, the size of the boxing gloves. Fiscal sparing is good exercise, we were told, but it might be as well to restrict it, by mutual agreement, to a purely scientific basis and for stakes which either party could afford to lose.

While this attitude developed, Canada has been in a peculiarly favourable position for observing closely not only the technique by which her neighbours, muscles were nourished and hardened until no task seemed too Herculean for them to compass, no burden too heavy but that it might be lightly borne—not only has this been patent and demonstrable, but it has been accompanied by an equally patent object lesson in the evils of over-reaching even so laudable an ambition as the cultivation of physical power. It is as easy to dissipate athletically as it is morally or mentally—quite as easy and almost as dangerous. It is the same inherited tendency, somewhat altered in its symptoms, which has, at a particular point in their development, affected all the nations of the earth and which no world-physician has yet succeeded in preventing from breaking out afresh in each succeeding generation. Not in

being strong or in taking full advantage of that strength, but in being abnormal—that is where the inexorable cosmic law is broken, and Cosmos knows no mercy.

Canada is too close a neighbour of the United States not to be immediately and intimately aware of domestic conditions just over the continent-long fence; on that point, there are no secrets between us. When the family in the big house finds its income large enough to warrant hot-house fruit and terrapin while we are living on modest canned goods and cold joint, it is humanly speaking, a consolation to know that contentment proverbially shuns stalled oxen, and that the big house has a much more grisly skeleton to grace its feasts than has yet made its appearance in the abode of its less pretentious neighbour. We may, as the divine Sara so effectively remarked to Quebeckers recently, lack a national literature and a national art; but the lack of either is better than their existence under the distorting stress of such conditions as prevail to the south of us. When all the arts look to commerce for their inspiration; when, instead of painting their patrons, painters paint for them; when playwrighting can be defined as the art of tickling a jaded and debauched palate and novelists tread on one another in hastening after the newest indecency, then lack of emulation is, at least, not glaringly discreditable.

Canada's inherited traditions have so far been her ægis in more ways than one, but the new call to national achievement means striking as well as warding, attacking as well as defending. The sane and decent conservatism of the Mother Country has served as the best kind of a criterion by which to judge the excesses and debaucheries in the lives of other nations; it now rests with us to hold as steadfastly to as high ideals of right and honour during the physical stimulus of fast-developing industry. To capture and hold the twentieth century, Canada must be as strong morally and mentally as she is commercially. The source from which danger threatens is already clearly indicated; we have had our exposures of corruption and immorality in high places, our buying and selling over the heads of the people, our tampering with legislative enactments in the interests of individuals. It is not even necessary to go far afield to find an organization brazenly and defiantly soliciting support on the ground that it aims to put in operation the "system" which has made the government of New York

City a by-word and a disgrace from one end of the continent to the other. That the effort will in all probability be a ludicrous failure is by no means wholly reassuring; that it could have reached a point where it is to be considered at all is a legitimate source of apprehension.

Inchoate, individual corruptness is one thing; organized corruption is another. The first, presumably, will be always with us; the beginnings of the second must be watched for with never-flagging vigilance. Syndicating government is possibly a legitimate conclusion to a purely commercial national existence, but it is not an end to which a young and ambitious nation can look forward with equanimity. If Canada is to realize her possibilities, she must now more than ever keep clearly before her the necessity of inculcating and maintaining both by precept and example the ideals of the country from which she has sprung while lending to their fulfilment the vigour and energy of a young people. If, at the dawning of the next century, we can show the world a nation, "*mens sana in corpore sano*," with industries which have not hampered legislation, and legislation which has not taken toll of industry, we will be in a fair way to be remembered among the great peoples of history.

JOHN S. LEWIS, JR.

Sir Frederick Pollock, who recently visited Canada, speaking at a recent meeting of the Royal Colonial Institute, said: "I certainly have heard Canadians say things of each other which it was not at all discreet to say to a traveller. It is very important, I think, that Canadians who wish the importance of Canada to be appreciated should make up their minds that Canada really has common interests far exceeding any merely local and sectarian differences, and that Canadians ought to present a united front in the British Empire. Finally, I should like to say that while Mr. Osborn has told us a great deal about the material resources of British Columbia, he had not time to do full justice to its charms as a place of residence. If I had to settle on the other side of the Atlantic, I should think twice or thrice before going anywhere else than on the Pacific coast, and that whether one considers either the kindly climate or the inhabitants of the country."

FEATURES OF THE CANADIAN CENSUS OF MANUFACTURES.

THE fact that an interval of four years separated the date of the last census from that at which the report on manufactures was issued goes far to render the interest felt in the results, as set forth, comparatively faint. The intervening years have been years of rapid development, and what was true of 1901 may differ in important respects from what is true of 1905. Much that is of great value, however, can be gathered from the record, and a point of special interest is the extent of advance shown by the latest over former enumerations. In dealing with this point we are met at once by a serious difficulty, for the enumeration of 1901 has not included among manufacturing establishments any in which fewer than five persons were employed, while the returns of 1891 and 1881, with which comparisons are made, are nominally inclusive of all establishments. Some trouble has been taken by the census office to overcome the difficulties due to this change in scope of the investigation, and the returns for 1891 have been re-examined so as to afford a basis of reasonable comparison with the data for 1901. The points which this revision of the published results for 1891 affects are, number of establishments, number of employees, wages and salaries paid, and gross value of products. The establishments reporting numbered 49,722 in 1881, and 75,964 in 1891. In 1901 only 14,650 are included in the returns. It is shown, however, that the exclusion of establishments employing four hands or less from the tables of 1891 reduces the number for that year to 14,065. In view of this, it can only be a matter of surprise that the introductory memorandum should solemnly set forth, and comment on, tables showing the changes in the amount of wages or of product per establishment as represented by the figures of the censuses of 1881, 1891 and 1901. When the point has been reached at which the modified figures for 1891 are introduced, it is at once seen that such comparisons are likely to be mis-

leading, to say the least. A similar remark applies to subsequent tables in which comparisons are made with the figures of the United States census. These latter, like our own formerly, include establishments of all sizes. Of 296,440 manufacturing establishments in 1900 in the United States, no fewer than 167,577 were returned as having less than five employees, while of a further 215,814 establishments scheduled among the hand trades, 175,659 had five employees or less. From these figures we gain some idea of the difference in scope of tables relating to establishments in which five or more persons are engaged in manufacturing, and those which aim at including all establishments. It is also plain that a crude comparison of Canadian figures, derived from the more limited group of establishments, with United States figures relating to the more comprehensive enumeration, is likely to be more or less misleading. At least a word of warning might be looked for.

Let us consider some of the points in which apparent changes, whether beneficial or otherwise, are as likely as not, perhaps more likely than not, to be the result of the change of basis, in whole or in part; and as to which the valuable figures which are supplied for the purpose of rendering possible a just comparison of 1891 with 1901 fail to afford much-needed guidance.

First comes the comparison of the relative numbers of men, women and children employed at each of the last three census-dates. In 1881 the men (15 years of age and over) made up, roughly, 75 per cent. of the aggregate number employed; in 1891, 74 per cent.; in 1901, 75½ per cent. The women (15 years of age and over) formed rather over 16 per cent. of the total in 1881; had increased to 19 per cent. in 1891, and further increased to 21 per cent in 1901. On the other hand, children formed 7.74 per cent. of the total in 1881, a figure which was reduced to 7.19 per cent. in 1891, and further fell to 3.55 per cent. in 1901. In the interval from 1881 to 1891, women were increasing relatively to men, while the proportion of children employed decreased, though not largely. In the next decade, the percentage of children employed decreased to one-half what it was in 1891, and, though the proportionate number of men employed increased, the increase was due entirely to the decrease in the number of children, the proportion of women to men increasing once more. The

diminution of child-labour recorded is noteworthy, and is probably not the accidental result of the change in the basis of the returns. In reference to the proportion of men to women employed, however, the facts are not supplied which would enable us to determine whether the apparent increase of female labour is a reality. At any rate, it is possible that the exclusion of the small workshops has excluded from the record relatively more men than women.

This point has considerable importance in connection with the question of the change in the average wages of labour shown by the census tables. A change in the proportion of men, women and children is obviously likely to result in a change in average earnings, even if no change take place in the earnings of the three classes considered by themselves. The 1891 figures do not separate wages from salaries, or the wages of men from those of women and children. The inquiry of 1901 has included the information needed for this separation. It is shown that a woman earns about half as much, a child one-third as much, as a man, whether judged by a day's earnings or a year's earnings. In individual industries these proportions are departed from, as also in the average results for the different provinces. In the broader average for the entire Dominion, however, these proportions are found. The decreased proportion of children, in the returns of 1901, affords a part, though only a small part, of the explanation of the apparent rise in average wages. Of the apparent increase of wages and salaries from \$272 per head to \$329 per head, it would appear as if about \$5 or \$6 can be attributed to this cause, though the effect may be greater than this. The exclusion of the small workshops accounts for a further \$19 per head, for the average of wages and salaries for 1891, when these small establishments are excluded, so as to give figures properly comparable for the two dates, is \$291 per person occupied in manufacture. The corrected average earnings of 1891 would thus appear to have been some ten per cent. below those of 1901. The increase is substantial, though less than shown by the crude figures first given, which are those first set forth in the report. How much it may signify is hard to estimate. It is worth while noting that there was a slight decrease in the same period in the United States. If we ventured to take the crude figures at their face value, it would seem

that wages stand about fifty per cent. higher in the United States than in Canada, and that the wage-level rose some 13 per cent. in the Dominion between 1891 and 1901, while it fell between one and two per cent. in the United States in the same interval. Whatever difference in the movement of wages has occurred, as between Canada and its southern neighbour, the extent of the contrast is probably exaggerated in the simple comparison of the average rates recorded in the respective census reports.

Few of the figures relating to the capital employed in manufacture in 1901 and at earlier dates permit of comparison of things roughly similar. The capital employed in all establishments, whether in the entire Dominion, in particular localities, or in individual industries, in 1881 and 1891, can be compared with that employed in establishments in which five or more persons were engaged in 1901. One series of comparisons alone enables us to come a little closer to facts which reflect the course of actual changes. These are found in the classification of certain details, according to the gross value of the products of each manufacturing establishment, district by district. By excluding the data for establishments with an output of less than \$50,000 (or probably those with less than \$25,000), there may be obtained figures for each date relating to establishments in which five or more persons were employed. Confining attention to the businesses with an output worth \$50,000 or more, the recorded growth is from 1,108 such establishments in 1881, to 1,673 in 1891, and 1,800 in 1901. The capital has increased from 85 millions of dollars, in round figures, at the first date, to 206 millions in 1891, and 336 millions in 1901. The increase of employees has been less, in proportion, than of capital. They numbered 83,526 in 1881, 138,465 ten years later, and 206,331 in 1901. Salaries and wages increased from 24 million dollars in 1881 to 47 millions in 1891, and to 75 millions in 1901. It will be noted that the average per person employed was \$287 in 1881, \$337 in 1891, and \$364 in 1901. The fact that these figures are larger than the general average for all establishments previously cited may be attributed to various reasons, among which there may be suggested, (1) that the largest businesses employ the most skilled and highly paid labour, (2) that they operate more continuously than the smaller establishments, (3) that the

remuneration of the labour of the owners, who may be also the principal workers in the smaller establishments, is not fully entered under the heads of wages or salaries. It will be seen later that the second of these considerations applies in an especial degree to account for some part of the difference between the census averages of wages in Canada and the United States. The reports for the latter country take account of the actual period of industrial activity in seasonal trades when computing annual averages. The percentage increase in earnings in the larger Canadian factories is shown at 8 per cent. over the period 1891-1901, a figure substantially below that obtained for all in the classes covered by the returns of the latest census. Even this figure is subject to some further deduction if the reduced proportion of cheap child-labour could be allowed for. When we note a rise in the level of wages as a subject for satisfaction, it is as well not to congratulate ourselves on a result which exaggerates the actual change. On the other hand, when the increased demands of labour are made a subject of complaint by employers of labour, it is important to know, if possible, the real extent of increase in earnings secured by employees.

Continuing the record of growth in industries with an output of \$50,000 or more, we find that the materials used were valued at 96 million dollars in 1881, at 151 millions in 1891, and at 196 millions in 1901. The growth is much less than that recorded for the capital, employees or wages. This may be due to lower prices for raw materials, in part, and in some degree to consolidations of enterprises engaged in different stages of manufacture, so that the partly manufactured product of one stage passes over to a further stage of manufacture without appearing as the raw material of a separate establishment. Increasing specialization tends in the opposite direction, but the comparatively small increase in the number of establishments in the group under consideration suggests that the balance of changes has been on the side indicated.

The manufacturing processes, in the establishments whose output exceeded \$50,000, added to the raw materials a value of 57 millions of dollars in 1881, a value of 95 millions in 1891, and 150 millions in 1901. The proportion of this increase of value which was absorbed by salaries and wages stood at 42 per cent. in 1881, at 49 per cent. in 1891, and at 50 per

cent. in 1901. This last is a somewhat lower proportion than that shown for all establishments in 1901. The fact that it is higher than the corresponding figure for the United States must be taken in connection with the fact that the United States figures cover establishments of all sizes and include a large proportion of very small businesses.

The growth in Canadian manufacturing shown by the figures just cited is certainly highly satisfactory. It is a little doubtful if these figures can be used as a measure of the general growth of manufacture in the Dominion over the twenty years covered, since the growth of individual enterprises which had stood a little under the limit of \$50,000 of output at the earlier dates, so as to exceed that limit by even a small amount, would make the group selected for examination grow out of proportion to the aggregate of industries. The change in the limits imposed on census enumerators raises an obstacle in the way of comparisons of the aggregates included in the returns of the latest and earlier dates, an obstacle only partly removed by the valuable tables showing some of the facts for 1891 on the basis of the 1901 returns.

The revision of the 1891 figures, however, has not included a statement of the value of material used in 1891 by establishments employing five or more persons. The importance of this omission is very great, and it is to be regretted that the figures were not computed. The compilers of the report show a consciousness of the importance of a statement of material used, as well as of the value of the product secured. As students of the reports of the United States census, they could hardly fail to be alive to this point. These latter reports show a hesitation in presenting figures which tend to reduce their magnificent totals, and find specious reasons for giving as the figure of net product of industry an amount which includes the value of all material not produced within the several limited industrial groups employed for the purpose of classifying the results of the census. For some purposes, the figures of gross product are, doubtless, the best figures which can be given for the comparison of different industries. But how the practice exaggerates the importance of manufacturing industries in comparison with other departments of national life can be readily seen from a few examples. Take the group of food products, with a value of 125 millions of dollars. Of

this total, about 32 millions represent the product of flour and grist mills, 29½ millions stand for butter and cheese factory products, 22 millions for slaughtering and meat packing, and 12½ millions for sugar refining. The materials used by these industries are returned at over 26 millions for the flour and grist mills, over 25 millions for butter and cheese factories, 19½ millions for slaughtering and meat packing, and 10½ millions for sugar refining. Thus, of 96 millions in value of product, nearly 82 millions comprise materials, mainly grain, milk, cattle and raw sugar respectively. The industries in question have not added to their material the 25 per cent. of the final value of the product which is the standard set up for determining the claim to preferential treatment of goods handled by British manufacturers. Are we not liable to indulge in strange delusions unless it is forced on our recognition that the manufacturers of Canada are not producing the values represented by their \$481,000,000 of products recorded in the census, but the much smaller, though still considerable, value of \$214,000,000, in producing which a capital of \$209,000,000 in land, buildings, tools and machinery, besides \$237,000,000 of working capital is engaged? The value of field crops raised in 1901 is recorded in the census reports as \$208,000,000. If we add the animal products, forest products, minerals and fishery products of the year, the total is about \$483,000,000. From this, allowance must be made for the duplication involved in returning as crops what is also returned as animal products, *i.e.*, for crops fed to stock, before we obtain a figure fairly adapted for comparison with the net product of manufacture. The result will, perhaps, exceed \$400,000,000. The immediate comparison of gross totals shows that the producers of raw material in Canada have an aggregate product about equal in value to that of the manufacturers. When we examine the facts a little more closely, it appears that the comparison is considerably more favourable to the extractive industries.

Turning from food products to other groups of industries, another aspect of the question of gross and net products presents itself. Thus we find clothing factories with a product of over 24 million dollars in value using material worth between 11 and 12 millions. A considerable part of this latter item is probably included in the \$7,360,000 of products of woollen

factories. Similarly, a part of the output of the cotton factories reappears as the material of other industries, such as men's furnishing goods. The dyeing and finishing of textiles is accorded an output of two million dollars worth of goods. The materials are valued at one and a half millions, and, were the dyeing and finishing works attached to works producing the fabrics operated on, a very large part of the million and a half would cease to be recorded either as materials or product. The excess of value of product over that of material used in cotton, woollen and shoddy factories and dyeing and finishing works amounts to some \$10,330,000. The like excess for clothing factories and men's furnishings is \$15,000,000. The latter groups of factories employ only about half the capital of the former, and though their wage-earners number nearly 34,000 as against 19,000, their importance, as generally estimated, seems to correspond rather to the capital employed than to product, whether net or gross, or to employees or wages paid.

The duplication of values is seen once more in the group of iron and steel products. Boilers and engines, bridges, cutlery, saws, screws and wire account for about a quarter of the products in the group. Nearly half their gross value is assigned to materials, a great part of which is probably represented in the value of products of other industries in the same group.

Two other examples will suffice to show the nature of the exaggeration involved in the simple addition of gross values of the products of all stages of manufacturing industry. In the group of trades dealing with leather and its finished products, a gross value produced of over 22 million dollars is represented by boots and shoes, belting and hose, harness and saddlery. Among the 13 million dollars' worth of material used in these industries, must be included a considerable fraction of the 12 million dollars' worth of leather which is a part of the total value recorded for this group of products. Thus, the total for the group, \$34,700,000, represents, to the extent of from a quarter to a third of its amount—not to attempt a precise estimate,—the same values counted twice, once as leather, once as boots or other leather goods. This is altogether an addition to the value of the hides which is represented in the leather,

but is not the product of the labour of those engaged in this branch of industry.

Similarly, of the \$3,669,000 worth of material of the printing, bookbinding and publishing trades, a considerable part has appeared in the \$4,381,000 returned as the value of the products of the paper manufacturers. Even though, in some of the cases referred to, a part of the material be imported into Canada, and thus involve no duplication of the kind just illustrated, the recognition of the fact that the gross value of the products of our factories is not to be attributed to the capital, labour and skill engaged in those factories in the same degree as with corresponding facts in the extractive industries, is desirable. Yet no reference to the net value of the products of manufacturing industry occurs in the report. It is true that the proportion borne by the value of the materials to the gross product is duly recorded in elaborate tables of amounts and percentages. But so little importance is attached to the item that even the aggregate value of material used is not included among the compilations from the 1891 record which are provided for the purpose of more accurate comparison of the facts of the last two censuses. Nowhere is any attempt made to eliminate the duplication of values such as has been referred to in the cases of cloth and clothing, leather and boots, paper and newspapers. Considerable importance is attached to the point by the census office at Washington, though their treatment of the whole subject does not appear quite satisfactory. The prominence given to the relations of net to gross values in the United States reports ensures that the matter has not escaped the notice of our own census officials. It is greatly to be regretted that they have not more fully appreciated its importance. The value of product per employee, less the cost of wages, is computed and forms the basis of comparisons. But no use whatever is made of the value of products less the cost of the principal materials worked up into them. Obvious difficulties arise, it is true, in interpreting the figures obtained. Yet these figures are not more misleading than many which are actually used.

In the concluding paragraph of the report, the lower average wage in Canada as compared with the United States is discussed. Some explanations offered are held, apparently, to be only reconcilable with difficulty with the fact that wages

form a smaller percentage of the value of the product in the United States than in Canada, 21 per cent. in the former, as against 23.5 per cent. in the latter. It has already been pointed out that wages absorb a larger proportion of the net product in Canada. The excess is proportionately larger than for the gross product.

Of the value added to materials in manufacturing processes 45.8 per cent. goes as wages and salaries in the United States, as against 52.8 per cent. in Canada, in spite of the wage-level being about fifty per cent. higher in the former country than in the latter. Further, the net value of the annual output is nearly 61 per cent. of the value of capital engaged in the United States, as against 48 per cent. in Canada. Less capital and less cost in wages and salaries is incurred in the United States in proportion to value produced than in Canada. The reason suggested is the larger scale on which manufacturing is conducted in the United States. While this is an important feature in the comparison, there are some other points which can by no means be neglected.

A first point to notice is that, if we compare wages alone, omitting salaries, with the value added in manufacturing, the percentage needed to meet the wages bill is 41 per cent. in the United States, 42 per cent. in Canada. As the inclusion of small establishments tends to underestimation of the payment for labour, this comparison does not show Canada at a disadvantage of significant magnitude. References to figures cited a few lines back will show that salaries absorb about 11 per cent. in Canada as compared with 5 per cent in the United States. It is to be noted that, in Canada, more than three-sevenths of this item is covered by salaries of proprietors and firm-members. The United States reports schedule the number of such persons, but do not state their salaries. Some part of what is covered by this item in the Canadian report would appear to be included in the profits, and not in either wages or salaries, in the United States reports. Comparisons which ignore this are likely to be distinctly misleading. When due allowance is made, the share of the value added in manufacture which is required for wages and salaries works out but little higher in Canada than in the United States. The economy of the large enterprise, so far as this head is concerned, would appear to be that clerical and managerial staffs are relatively more efficient

in dealing with a large than with a small business. On the head of capital a similar advantage accrues to the United States, apparently. One is tempted to ask whether the entire handicap on Canada is essentially involved in the smaller scale of operations in the Dominion. May not some part of the differences recorded be capable of elimination without waiting for the growth of our industries to a magnitude rivalling that of our neighbours? Is the capital account as conservatively stated in Canada as in the United States? And again, is the salaried staff padded with officials not wholly needed for efficient working in any different degree here than there? Only if we can be quite sure that neither of these alternatives is responsible for the facts, as obtained for the census, can we feel obliged to fall back on the explanation that the smaller scale of our industries is the essential reason for the disadvantageous showing under discussion.

The excess of average wages in the United States over those in Canada, which has been referred to above as about fifty per cent., is again a point needing qualification. Reference has already been made to the fact that the United States reports take account of the average number of wage-earners employed throughout the year, and base the average of wages on that figure. Now, the data supplied in the Canadian report yield the result that the average number of days worked in 1901 in Canada was, for men 245, for women 253, for children 230. The number of wage-earners employed in the United States ranged from $4\frac{1}{2}$ to 7 millions during the year, averaging 5,300,000, and the average of wages must be taken as applying to about 300 days of labour of this last number of workers. On the basis of an average of 300 days' work for each person, the record of days worked in Canadian factories in 1901 corresponds to an average of 245,792 persons engaged, in place of the census figure of 300,026 wage-earners (excluding outside piece-workers). This makes the average rate of earnings work out at \$357 instead of \$292. The comparison of \$357 for Canada with the average wage of \$438 for the United States, though still showing much higher average earnings in the latter country, is far from showing 50 per cent. of difference.

The way in which so great a contrast arises may be seen from the case of the fish-preserving industry. Some 15,467 individuals are employed at wages for an average of 86 days in the

year. The wages are low, and the proportion of women and children is high in this industry, the average of wages being about \$78. So far as no other industrial occupation fills the remainder of the year for the persons here considered, it is fair to enter them at \$78 per year. In so far as the rest of the year is given to other employments, a duplication is apt to arise, two or more persons being recorded where there is but one in reality. In comparisons with figures for the United States, at any rate, the figures should be made up on the same basis as there, as far as that can be done.

One further cause of the differences in the recorded averages is found in the variation between the proportions of men, women and children employed in the two countries. As men are the most highly-paid class, and a larger proportion of men are recorded as wage-earners in the United States than in Canada, if the Canadian proportion of men were found in the United States, the average yearly wage would be reduced some five or six dollars. The point has already been referred to, and the extent of change dependent on it is not large.

The comparison between average Canadian and United States wages contained in our census report is of \$329 for Canada against \$478 for the United States. These figures include salaries with wages. The facts being what they are, it seems strange that unnecessary encouragement should be given to Canadian workmen to seek their fortunes in the States.

Taking everything together, the United States average yearly wage, instead of being nearly fifty per cent. higher than the Canadian, is probably not more than twenty per cent. higher. This difference is more easily accounted for by such considerations as that the nature of the chief manufacturing industries of the Republic is such as to require a larger proportion of highly skilled labour than in the industries of the Dominion. With a difference of fifty per cent. in the levels of wages, it seemed necessary to conclude that equal skill was receiving substantially different remuneration, different in degrees not readily accounted for, in these two neighbouring countries. With a difference of twenty per cent., or thereabouts, no such difficulty occurs. A considerable proportion of workmen there possessing a degree of skill to which comparatively few attain here would go far to account for the actual difference in average wages.

It is interesting to note, in conclusion, the indications, afforded by census returns and trade returns, of the proportions in which Canada secures manufactured goods from her own and from foreign factories. For this purpose the gross value of products is that which must be used. The products of our home factories in 1901 were valued at \$481,000,000. The manufactured articles and articles of luxury imported amounted to \$78,300,000. To this, for comparison, we should add a part of the imported food, and a few items from the class designated crude (Class B) in the classification of the trade returns. Adding also the manufactured or partly manufactured materials of industry imported, a total of from \$125,000,000 to \$130,000,000 is arrived at, or a little over a quarter of the value of home manufactures. This is a smaller degree of dependence on outside sources than is commonly supposed to exist. Of the material used in manufactures, apparently about one-quarter in value is imported, of which a part is included in the above total, part consists of crude materials imported. If these proportions may be relied on, our factories require a dollar's worth of material from abroad for every three dollars' worth derived from domestic sources, and we use not far from four dollars' worth of domestic manufactures for every dollar's worth of imported manufactures. This proportion would be varied still more in favour of domestic production were we to include the products of establishments employing less than five hands. These latter, if they bore approximately the same proportion as in 1891 to the products of the larger establishments, were alone as great as the total of imported manufactures in 1901.

A. W. FLUX.

IS A CHEQUE REALLY A BILL OF EXCHANGE?

LEGALLY, of course a cheque is a bill of exchange. It is so defined in the English Act of 1882, and that Act has been made the basis of legislation in most of the English colonies, notably in the Dominion of Canada and the Australasian States. Nothing, indeed, could be more clear and definite than section seventy-three of the English Act which in the most positive and unmistakable way asserts that "*a cheque is a bill of exchange** drawn on a banker, payable on demand." And when a statute defines any particular thing as possessing a particular attribute, the thing so defined must for all legal purposes be considered to possess the attribute given to it.

The question then to which I propose to endeavour to give an answer in this brief article is not whether a cheque is legally a bill of exchange; but whether it really in its own inherent nature sufficiently resembles a bill of exchange to justify the framers of an ideal act in so regarding and defining it. In other words, were the framers of the English Act of 1882 really aware of the true nature of a cheque, when they defined it by statutory enactment as a "bill of exchange"?

This is a question of something more than mere theoretical importance. If Sir Frederick Pollock and Mr. Geoffrey Drage should ever succeed in the patriotic mission which lately led them to visit Canada, or if the suggestion of codifying the commercial laws of the Empire should ever become an accomplished fact, it would then as a matter of practical commercial policy be eminently desirable that the law governing the transfer of cheques throughout the Empire should be alike uniform, simple and efficient. For, as one of the greatest of living English judges remarked not long ago, "It is most important that a cheque should not be an embarrassing document"—and every one who has a banking account will agree

* The italics are my own.

with the words of that eminent legal authority. But, unfortunately, though English judges may affirm from the bench the desirability of a position which would seem almost self-evident even to "the man in the street," the actual result of English law, whether case-made or statutory, has in the case of cheques almost invariably been to render alike embarrassing, difficult and abstruse an instrument which all the interests of commerce would naturally desire, should be easy, simple and clear. The fact is, that admirable as the individual decisions of English judges have generally been within the limits of their jurisdiction, there is a certain inherent weakness in any system of law which makes no positive provision for legislative amelioration in cases where the application of an old principle to a new and exceptional set of circumstances may be the cause of an undesirable decision. Under the English system of law it is the duty of the judge to apply the law as it exists at the moment, whether in the form of previous decisions or in the form of statute-law, to the actual facts before him. It is no part of his duty to state what the law ought in his opinion to be; he has merely to confine himself to the interpretation of the existing law in regard to a particular case. When Sir Frederick Darley, the Chief Justice of New South Wales, in trying a case under the Arbitration Act of that State, went out of his way to utter a vehement and impassioned condemnation of the principle of the Act, whose provisions he was, by the fact of his office bound to interpret and enforce, it was generally felt even by those who most strongly opposed the tendency of the Act, that his words could only be justified by the extreme character of that particular piece of legislation. The rule has always been for English judges all over the world to confine themselves to the strict limitations of their office, to interpret and not to endeavour to amend or criticise the law.

Such is the system under which English law has been built up and is constantly being supplemented by individual decisions of the higher courts. It is certainly on abstract grounds liable to many inconveniences. Under any ideal system of jurisprudence some arrangement would doubtlessly be made to incorporate in future legislation the suggestions and criticisms of those who are most competent to form an accurate and unbiassed opinion, namely, the judges of the land.

These general observations, while applying to many branches of British legislation, in no case receive a better illustration, than in the law pertaining to cheques. The cheque is an instrument of peculiarly British character. It has grown by a process of natural evolution, and as a fitting and necessary accompaniment of a system of world-wide commerce which is well-nigh unparalleled in the history of mankind. It is the outward and visible sign of that sturdy common-sense and that unflinching and strenuous rectitude which have been such general characteristics of British commercial activity in every part of the globe. It has been developed with the object of providing a safe, easy and convenient method of making monetary payments without the necessity or inconvenience of handling or transferring large quantities of actual coin.

A bill of exchange, on the other hand, probably owes its origin to the Jews and Lombards in the thirteenth century, and it was originally an instrument restricted to the usages of foreign commerce. One of its most striking and essential features is its adaptability for providing for the payment of debts at a future time, thus enabling creditors "to fix down debtors to a day of payment," and "to get the use of a sum equivalent to the debt (less a small discount) before it is properly due."

The purport of the two instruments is, in fact, entirely distinct. The object of the one is to provide an easy method for the immediate payment of money; the object of the other is to postpone for a time the satisfaction of a pecuniary obligation, and yet to give the creditor security for his ultimate payment.

Perhaps the radical and essential difference between the two instruments was never more lucidly explained than in a judgment* delivered by that eminent judge, the late Baron Parke, in the year 1854, who (*inter alia*) said, "If this had been a decision on a regular Bill of Exchange, payable on or after sight, it would have been a strong authority It is not, however, the case of a Bill of Exchange, but of a Banker's cheque, which is a peculiar sort of instrument, *in many respects resembling a Bill of Exchange, but in some entirely different*. A cheque does not require acceptance; in the ordinary course it is never accepted; *it is not intended for circulation, it is*

* In *Ramchurn Mullick v. Luchmeechund Radakissen*, 9 Moore's Rep., p. 69.

given for immediate payment; it is not entitled to days of grace; and, though it is, strictly speaking, an order upon a debtor by a creditor to pay to a third person the whole or part of a debt, yet in the ordinary understanding of persons, it is not so considered. It is more like an appropriation of what is treated as ready money in the hands of the banker, and in giving the order to appropriate to a creditor, the person giving the cheque must be considered as the person primarily liable to pay."

When Baron Parke stated that "a cheque is not intended for circulation, it is given for immediate payment," he laid his finger so to speak on the inherent and essential difference between a cheque and a bill of exchange; and it is because this radical distinction in the character of the two instruments has gradually been lost sight of, that notwithstanding the efforts of customers to provide for the non-circulation of the cheque, it has become increasingly difficult so to draw a cheque that it shall serve its original purpose and only be "given for immediate payment." It is hardly too much to say that the history of the cheque has on the one hand been a continuous struggle on the part of its users to confine it to its original purpose of "immediate payment," and on the other an equally constant and (in the main) unswerving tendency on the part of the law to prevent any such consummation being effected.

Three obvious instances may serve as illustrations of the fact. In the first place the substitution of the word "order for "bearer" is a clear effort to prevent the negotiability of an instrument which, owing to its fancied resemblance to a bill of exchange, began to be regarded as by nature negotiable. Another step in the same direction was the gradual introduction of the principle of crossing cheques (which has, however, not been copied in Canada). And lastly, when even this precaution was found insufficient, a new method (and one which, to the lay mind, might certainly have been regarded as absolutely efficient, provided it were sanctioned by law) was devised. The new device consisted in writing the words "Not negotiable" within the limits of the space made by the two lines which are known as "crossing." Here at last it might surely have been expected that a safeguard was found, if the law could be induced to regard the two words "Not negotiable" as an integral and legal part of a crossing. But, even here the unhappy

customer (who was only endeavouring to render his cheque proof against circulation, and was so—though unconsciously—supporting the dictum of Baron Parke) found that the law, while willing to sanction the words “Not negotiable,” was still determined to prevent the complete non-negotiability of a cheque. The words, indeed, became legal in the Bills of Exchange Act; but they were to bear the meaning of not negotiable except in the hands of one whose title is in a clear, unbroken line as good as that of the first payee.*

Out of the many legal decisions which have rendered the non-negotiability of a cheque so difficult to effect, two cases may be cited by way of illustration. The first is *Smith v. The Union Bank of London*, which is a good illustration of the danger to which (owing to the negotiability which the law has insisted and persisted in attaching to a cheque) such an instrument may be exposed even in the hands of the payee. The facts were briefly as follows: A cheque for £21 9s was drawn in payment of a draft by the directors of the Civil Service Co-operative Association in favour of Mr. Smith on their bankers, The Union Bank of London. The cheque was payable to Smith's order. Smith crossed the cheque with the name of his own bankers (the London and County Banking Company), indorsed it and gave it to his servant to take to the London and County Banking Company and cash. While the servant was taking the cheque, it was stolen; sold by the thief to one, Robert Thurger, for £8 10s. and sold by Thurger for its full value (twenty-one pounds nine shillings) to a gentleman who had an account *not* with the London and County Banking Company, but with the London and Westminster Bank. He paid it into his own bankers, and they presented it to the Union Bank of London, who duly honoured the cheque. Smith accordingly sued the Union Bank of London for having paid the cheque when it was specially crossed with the name of another banker; but it was held that he could not recover. Lord Cairns in delivering judgment, said, “In this case the facts are as follows: Mills and others (the directors of the Civil Service Association) drew a cheque on the defendants payable to the order of the plaintiff, the plaintiff received it, indorsed it, and wrote across it the name of the London and County Banking Company. It was stolen,

* See appendix.

never reached the London and County Banking Company, but came to the hands of a customer of the London and Westminster Bank as a *bona fide* holder for value. He paid it into that bank who presented it to the defendants. They paid it. The plaintiff then brought this action, treating himself as the owner of the cheque, and the defendants as having wrongfully converted it, and also claiming the amount of it on the ground that the defendants have infringed to his loss the Statute 21 and 22 Vict., c. 79. The question is, whether any action is maintainable by the plaintiff against the defendants. It is quite certain that before that Statute no action could have been maintainable on these facts Whatever may have been the effect of a crossing, the negotiability of a cheque was not thereby restrained. Then have the Statutes restrained it? It is impossible to hold that they have. There is not a word in them to that effect The Legislature might have enacted that any one taking a crossed cheque should take it at his peril, and get no better title than his transferor had. It has not done so. We cannot say that it has by implication restrained the negotiability of the cheque. We must say, then, that the holder of the cheque, the customer of the London and Westminster Bank, who presented it to the defendants, was the lawful holder, entitled to retain it against the plaintiff and all the world If the Statute had meant to prevent any person becoming lawful holder of a crossed cheque unless he derived title through lawful holders, this ought to have been, and might easily have been expressed. If they meant that a man might be a lawful holder, but in no way entitled to the money—a not very intelligible position—this ought to have been expressed.”

This case was decided before the Bills of Exchange Act, 1882, which Act codified the law in regard to Bills of Exchange and cheques, but it is an admirable illustration of the extreme difficulty which attends any effort to render a cheque completely non-negotiable under the English law. Mr. Smith doubtless thought that when he had crossed an order cheque with the name of his own bankers, the cheque was absolutely safe, but adverse judgment after lengthy and costly legal proceedings must have caused him to realize too late how mistaken that opinion was.

The second case to which I would briefly refer is that of the *National Bank v. Silke* (which it will be noticed was decided after the codified Act had come into force). The facts there were as follows: On April 29th, 1889, Silke, the defendant, drew on the Camden Town Branch of the Alliance Bank a cheque for £450, which he gave to J. F. Moriarity. The cheque was in the following words: "Pay to the order of J. F. Moriarity, Esq., four hundred and fifty pounds," and it was crossed *by the drawer*, "Account of J. F. Moriarity, Esq., National Bank, Dublin." Moriarity indorsed the cheque and sent it to the National Bank. His account was then slightly overdrawn. They placed it to his credit, and sent the cheque to London for collection, allowing him to draw on the cheque till his balance was thereby reduced to £46 19s. In the meantime Silke had given directions to his bankers (the Camden Town Branch of the Alliance Bank) not to honour the cheque; and accordingly the National Bank commenced an action against him. Day, J., gave judgment for the plaintiffs, which was confirmed by the Court of Appeal. The equity of the decision will, of course, not be called in question; but, its interest from my present point of view lies in the fact that the judgment was largely based on the supposition that the cheque when received by the Irish bank was, notwithstanding the explicit directions contained in the crossing, still a negotiable instrument. Indeed, Fry, L.J., on this point said, "I am inclined to think that Sec. 8 divides bills into three classes—bills not negotiable, bills payable to order, and bills payable to bearer; *so that a bill payable to order must always be negotiable.** But assuming that a bill payable to order can be made not negotiable under Sec. 8, sub-sec. 1. I am clearly of opinion that the words used in the present case neither prohibit transfer nor indicate an intention that the cheque should not be transferable. Much more definite words must be used to counteract the effect of the cheque being expressed to be payable to order."

No case better illustrates the unsatisfactory state of the law regarding cheques owing to their supposed resemblance to bills of exchange than does that of the *National Bank v. Silke*. On the one hand it seems clear (if that case be pressed to its logical limits) that had the proper terms of non-negotiability (what-

* The italics are my own.

ever they may be) been attached to his cheque by Silke, then he, after a deliberate mandate given to the effect that Moriarity should be paid £450 out of his (Silke's) moneys, could have defied the claims of the National Bank; which would surely be a monstrous decision. On the other hand, it is surely equally undesirable that the deliberate intention of a drawer to render his cheque not liable to negotiability should be defeated by a fancied resemblance between that instrument and a bill of exchange, even though that resemblance has now been specially sanctioned by law.

I have already quoted Baron Parke's judicial opinion on this point; let me now adduce the evidence of another well-known technical (though not legal) authority. Mr. Morse in his "*magnum opus*" on Banks and Banking, in distinguishing between cheques and bills, says: "The differential traits decidedly predominate; and the more correct method is to treat the check (cheque) as an altogether independent and distinct instrument from the bill of exchange,* admitting at the same time that in some few specific matters the resemblance between the two instruments is sufficiently strong to cause one and the same rule to cover and include them both."

But this is not, as I have endeavoured to emphasise, a mere academic question. On the contrary, it is a matter that has a real and pressing interest for the man in the street; for in the words already quoted from a judgment of one of the greatest of equity judges, "It is most important that a cheque should not be an embarrassing document."

After giving this matter a good deal of attention for several years, I have come to the conclusion that there is no document in common daily usage which is less understood by the people at large than the cheque. Since I first took an interest in the subject, I have never yet come across a layman who could draw an absolutely safe cheque (by which I mean a cheque absolutely non-negotiable except by its intended payee) according to the methods of British law. Indeed, I very much doubt whether the ordinary lawyer—by which I mean the lawyer, be he barrister or attorney, who has not devoted special attention to the laws of Bills of Exchange or the cases decided in reference thereto—could do so either, unless he first referred

* The italics are my own.

to written authority. Even a specialist might in such a case be on somewhat doubtful ground, seeing that legal decisions, as exemplified by the case of *National Bank v. Silke* are generally of a negative character, and though the law decides plainly enough what must not be done, it very rarely gives a clear and unmistakable decision as to what is the proper method of procedure (in this case, *exempli gratia*, of drawing an absolutely non-negotiable cheque). And while I believe that a cheque drawn to A. B. *only*, and with the words "bearer," or "order" erased would legally be absolutely not-negotiable, there is, so far as I am aware, no actual decision on that point.

That an instrument in everyday use should be the subject of so much uncertainty is surely in the highest degree undesirable; while it can hardly be denied that the confusion of the cheque with the bill of exchange is the cause which underlies all the difficulties of drawing an absolutely safe and non-negotiable cheque.

The present state of things is surely equally curious and unsatisfactory. Here is an instrument which was obviously (and according to unimpeachable legal authority admittedly) devised for the purpose of making safe and immediate payment; and yet notwithstanding the combined efforts of its users it has become increasingly difficult to effect its unmistakable original intention.

And if ever we get a uniform inter-British commercial law, it will surely not be too much to ask that the cheque shall be restored to the position, which in the language of Baron Parke, it was intended to occupy; that recognition shall be granted to its true character; and that its inherent non-negotiability shall be emphasised by Statute.

R. E. MACNAGHTEN

APPENDIX.—Section 81 of the Bills of Exchange Act deals with the words "Not negotiable" as follows: "Where a person takes a crossed cheque which bears on it the words "not negotiable," he shall not have and shall not be capable of giving a better title to the cheque than that which the person from whom he took it had." It will thus be seen, that though according to the English Act, the words "not negotiable" afford a considerable measure of protection, they in no way prevent the possible transfer of a cheque crossed with the words "not negotiable" to any number of persons, provided each of those persons is a legitimate and *bona fide* holder for value.

THE CANADIAN SYSTEM OF BANKING.

TO the many enquirers of the JOURNAL from colleges and debating clubs in the United States for information on the subject of Canadian banking and currency, we unhesitatingly recommend perusal of the address delivered some ten years ago at Chicago, Saratoga, and elsewhere, by Mr. B. E. Walker, General Manager of the Canadian Bank of Commerce.

The following quotation from the address delivered by Mr. Walker at Chicago ranks easily as the best exposition yet given of a banking system suitable to the requirements of a rapidly growing country. Read in the light of 1905, the gifted Canadian banker's words still ring clear and convincing. There is "no country in the world so well supplied with banking facilities as Canada," and it may still, as at the time when Mr. Walker addressed the New York Bankers in 1895, be claimed by some that we are "in danger of the results of over-competition."

Mr. Walker said in part:

"In discussing the banking systems in older countries, the borrower is not often considered. Men must borrow when and how they can, and pay as much or as little for the money as circumstances require. I believe too strongly in the necessity for an absolute performance of engagements, to think that it is a requirement in any banking system that it shall make the path of the debtor easy. Every banker should discourage debt, and keep before the borrower the fact that he who borrows must pay or go to the wall. But in America the debtor class is apt to make itself heard, and I wish to show what our branch system does for the worthy borrower as compared with the United States National Banking System.

In a country where the money accumulated each year by the people's savings does not exceed the money required for new business ventures, it is plain that the system of banking which most completely gathers up these savings and places them at the disposal of the borrowers, is the best. It is to be remem-

bered that this involves the savings of one slow-going community being applied to another community where the enterprise is out of proportion to the money at command in that locality. Now, in Canada, with its banks with forty and fifty branches, we see the deposits of the saving communities applied directly to the country's new enterprises in a manner nearly perfect. The Bank of Montreal borrows money from depositors at Halifax and many points in the Maritime Provinces where the savings largely exceed the new enterprises, and it lends money in Vancouver or in the Northwest, where the new enterprises far exceed the people's savings. My own bank in the same manner gathers deposits in the quiet unenterprising parts of Ontario, and lends the money in the enterprising localities, the whole result being that forty or fifty business centres, in no case having an exact equilibrium of deposits and loans, are able to balance the excess or deficiency of capital, economizing every dollar, the depositor obtaining a fair rate of interest, and the borrower obtaining money at a lower rate than borrowers in any of the colonies of Great Britain, and a lower rate than in the United States, except in the very great cities of the East. So perfectly is this distribution of capital made, that as between the highest class borrower in Montreal or Toronto, and the ordinary merchant in the Northwest, the difference in interest paid is not more than one or two per cent.

In the United States, as we know, banks have no branches. There are banks in New York and the East seeking investment for their money, and refusing to allow any interest because there are not sufficient borrowers to take up their deposits; and there are banks in the West and South which cannot begin to supply their borrowing customers, because they have only the money of the immediate locality at their command, and have no direct access to the money in the East, which is so eagerly seeking investment. To avoid a difficulty which would otherwise be unbearable, the western and southern banks sometimes rediscount their customers' notes with banks in the East, while many of their customers, not being able to rely on them for assistance, are forced to float paper through eastern note-brokers. But, of course, the western and southern banks wanting money, and the eastern banks having it, cannot come together by chance, and there is no machinery for bringing them together. So it follows that a Boston bank may be anxiously looking for

investments at four or five per cent., while in some rich western State ten and even twelve per cent. is being paid. These are extreme cases, but I have quoted an extreme case in Canada, where the capital marches automatically across the continent to find the borrower, and the extra interest obtained scarcely pays the loss of time it would take to send it so far, were the machinery not so perfect.

As I have indicated, it should be the object of every country to economize credit, to economize the money of the country so that every borrower with adequate security can be reached by someone able to lend, and the machinery for doing this has always been recognized in our banks. That is surely not a perfect system of banking under which the surplus money in every unenterprising community has a tendency to stay there, while the surplus money required by an enterprising community has to be sought at a distance. But if by paying a higher rate of interest, and seeking diligently, it could always be found, the position would not be so bad. The fact is that when it is most wanted, distrust is at its height, and the cautious eastern banker buttons up his pocket. When there is no inducement to avert trouble to a community by supplying its wants in time of financial stress, there is no inclination to do so. The individual banks, East or West, are not apt to have a very large sense of responsibility for the welfare of the country as a whole, or for any considerable portion of it. But the banks in Canada, with thirty, forty, or fifty branches, with interests which it is no exaggeration to describe as national, cannot be idle or indifferent in time of trouble, cannot turn a deaf ear to the legitimate wants of the farmer in the prairie provinces, any more than to the wealthy merchant or manufacturer in the East. Their business is to gather up the wealth of a nation, not a town or city, and to supply the borrowing wants of a nation.

There was a time in Canada, about twenty years ago, when some people thought that in every town, a bank, no matter how small, provided it had no branches, and had its owners resident in the neighbourhood, was a greater help to the town than the branch of a large and powerful bank. In those days, perhaps, the great banks were too autocratic, had not been taught by competition to respect fully the wants of each community. If this feeling ever existed to any extent, it has passed away. We are, in fact, in danger of the results of over-competition. I do

(e)

not know any country in the world so well supplied with banking facilities as Canada. The branch system not only enables every town of 1,000 or 1,200 people to have a joint-stock bank, but to have a bank with a power behind it generally twenty to fifty times greater than such a bank as is found in towns of similar size in the United States would have.

But one of the main features of the branch system is connected intimately with our power to issue notes based upon the general assets of the bank. When the statement of a large Canadian bank is examined by an American banker, the comparatively small amount of actual cash must be noticeable. He will notice that the bank is careful to have large assets in the United States which may be taken back to Canada in times of financial strain there, and large assets in convertible shape at home, but having regard to actual cash as the machinery for carrying on the business at the counter, how can a bank with forty or fifty branches get along with so little cash? The simple answer is that the tills of our branches are filled with notes which are not money until they are issued, and which, therefore, save just that much idle capital and just that much loss of interest."

Later on I hope you will see more clearly why I regard the branch system as a natural adjunct to a sound bank currency in this country.

Now, as to the great question of bank-note issues. I cannot undertake to discuss the many schemes now before the public. I am naturally most interested in such proposals as those made by the bankers at Baltimore, by Mr. Carlisle, and by some others, avowedly influenced by the Canadian system, and I can only speak very generally regarding the differences between these and the Canadian system, and as to the probability of our system being workable in the United States at all. Permit me first to briefly state the distinctive features of the Canadian bank-note issues:

(a) They are not secured by the pledge or special deposit with the Government of bonds or other securities, but are simply credit instruments based upon the general assets of the banks issuing them.

(b) But in order that they may not be less secure than notes issued against bonds deposited with the Government, they are made a first charge upon the assets.

(c) To avoid discount for geographical reasons each bank is obliged to arrange for the redemption of its notes in the commercial centres throughout the Dominion.

(d) And, finally, to avoid discount at the moment of the suspension of a bank, either because of delay in payment of note issues by the liquidator or of doubt as to ultimate payment, each bank is obliged to keep in the hands of the Government a deposit equal to five per cent. on its average circulation, the average being taken from the maximum circulation of each bank in each month of the year. This is called the Bank Circulation Redemption Fund, and should any liquidator fail to redeem the note of a failed bank, recourse may be had to the entire fund if necessary. As a matter of fact, liquidators almost invariably are able to redeem the note issues as they are presented, but in order that all solvent banks may accept without loss the notes of an insolvent bank, these notes bear six per cent. interest from the date of suspension to the date of the liquidator's announcement that he is ready to redeem."

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Ten years have passed away since the address quoted from was delivered, and still the intensely practical people of the United States seem unable to remedy the admitted imperfections of their banking and currency systems.

LOYALTY IN BRITISH COLONIES.

AT a meeting of the Royal Colonial Institute, held in London in November, a paper was read by Mr. W. J. Sowden on the Anglo-Australian position from an Australian point of view. Mr. Sowden is connected with the Australian press, and, without endorsing everything said of him, we find in his remarks so much of interest to the many Canadians who have discussed or talked of the Anglo-Canadian position from a Canadian point of view, that we cull the following extracts from Mr. Sowden's exceedingly interesting address. That much ignorance, and some misrepresentation should exist in London as to the condition of Australia and Canada is, doubtless, due in part to certain stupid travellers making a mad rush through the countries referred to, looking at everything through the wrong end of the glass, and upon their return being permitted to publish the hazy impressions of what they have seen, and their remarkable recollections of what they have heard. Canadians, like Australians, would receive with pleasure a proposal to send a commission of well-chosen representatives of the Motherland to Canada or Australia to investigate public matters, and to report what they find in both countries from the point of view of sensible reflective men, and thus efface forever from our memories the nonsense that has been written about Canada and Australia by dunderheaded tourists and befuddled globe trotters. In speaking of the loyalty of his country, Mr. Sowden, whose name is very prominent in the profession of journalism in Australia, said:—

“I should not enlarge upon this preposterous representation (*References had been made to discoveries of disloyalty among the population of Australia.*—Editor) if it had not in the past demonstrably prejudiced Australians socially in England, and some of the Australian operations on the London money market; and now that the matter is under consideration, I must, though greatly daring, express the candid opinion that at any rate in

the outward manifestation of loyalty, the average Australian surpasses the average denizen of the British Isles. In many schools of Australia the children, while lacking in that respect for the men who have passed away which is engendered by ancient landmarks in older lands—for we have no ivy-clad ruins and crumbling castles—regularly and reverently salute the flag—not an Australian flag merely, but the grand old Union Jack—and when the National Anthem is sung in any part of the Commonwealth, every mother's son among the audience, indoor or outdoor, wet or shine, hot or cold, doffs his hat, and remains thus uncovered until the last strains of the patriotic song have died away. In London, on the contrary, I have frequently seen in similar circumstances a widely contrasting demonstration. Loyalty may not depend upon whether a few inches of felt, more or less, are upon one's head, or removed slightly from it; but those who show possibly an excess of respect for the Throne ought not to be chidden by others who manifest relatively a defect in that direction, especially when regard is paid to the fact that some of the Imperial titles which have been conferred upon Australians in the past have been a burlesque of honourable attainment and a travesty of real distinctions. In the light of such misunderstandings as have often prevailed regarding the Australian attitude towards old-world questions, one should hardly be surprised to observe that an Australian writer recently styled himself "An Outlander in England." He had evidently been imbued with the prevalent notion that men of affairs in England patronise Australians, much as the State Governments of the Commonwealth were—or believed they were—patronised by the War Office when their early voluntary and genuine offers to send at their own expense mounted soldiers to help the Motherland in South Africa were half-scornfully met with the request that—not the horsemen who ultimately helped so materially to win the campaign, but—infantry should be despatched practically to please the Colonies, whose feelings might otherwise be hurt. The *Daily Chronicle* has felicitously expressed the view that no Australian ought ever to feel like an Outlander in England; and personally, as a son of English parents whose progenitors fought in the old country's battles on land and sea, and as a loyal subject of the King who can claim to be an Englishman in fact as well as at heart, I welcome the graceful compliment inferentially paid to Australian Britons when so-

journing in the world's metropolis. In this dear old London, in which I surely must have dwelt in some earlier incarnation, because it seems so homelike and so familiar, kindness and courtesy have encompassed me, and have caused me to feel that the British Dominion, with its world-wide ramifications, is but a city of many mansions—that England is one room, and Australia is as truly another; that there is no essential difference between the English Briton who dwells under a dull grey sky and the Australian Briton who lives under a bright blue firmament—that the one is as good as the other, and no better; that a man does not love his mother the less because he loves his wife, even though he considers that where broad family interests are not at stake each should be mistress in her own sphere; and that the traditions and the achievements of Great Britain are the common heritage of Britons everywhere. (I have carefully avoided styling the Colonies “Greater Britain” because I do not deem that term to be appropriate.) Still, consistently, doubtless, with the best of good will, and with the fact that in the Commonwealth nearly every little child, even unto the third and fourth generations, speaks of England as “home,” a great deal of misconception obscures the outlook upon things Australian in this country. While, I repeat, I have been a subject of overwhelming personal kindness, I say as unhesitatingly that Australia is unpopular in the United Kingdom. A cloud rests upon the old-world estimation of it. I cannot recall having heard a single unaffectedly genuine expression of confidence in the future of Australia or of sympathy with its aspirations. The tone adopted by commentators has been almost uniformly slighting or pitying, if not actually unfriendly; and some of the worst offenders in this respect have been folk who went to Australia with nothing, who speedily made fortunes there, and who returned to England to spend them, leaving others to wrestle with the political and social and industrial problems which are being surely, if slowly and somewhat painfully, solved in the Land of the Southern Cross. To these gentlemen in their pessimistic thoughtlessness I earnestly appeal not to condemn the bridge which has carried them safely over their earlier difficulties—not to kick away the ladder on which they have risen to success. We may reasonably object to the cry ‘Australia for the Australians!’ but we ought to unanimously endorse the sentiment, ‘Australians for Australia!’”

Another part of Mr. Sowden's address is of peculiar interest to Canadians in view of the recent effort made by the late Mr. Prefontaine, as Minister of Marine, to arouse interest in the formation of a naval force for the protection of the Dominion. Mr. Sowden, when speaking of Australia and the navy, said:—

“Since I have been in England I have heard repeated *ad nauseam* the statement that Australia has been mean and unworthy in its contributions to the defence of the nation. I do not by any means accept that conclusion; but I shall not labour the argument, as the facts have been clearly stated in this room and elsewhere by Senator Matheson, of Western Australia, and other gentlemen who have carefully studied the subject. One may, however, reiterate a few salient points, the most impressive of which is that, though the Imperial Government did not, in the judgment of Australia, give full practical effect to its covenant—particularly with reference to the training of men for the Navy—under the agreement arranged at the Imperial Colonial Conference in 1887, the arrangement then made was extended, and has since been amplified in the interests of the Home authorities. The Australian contribution to the cost of the Auxiliary Squadron has been increased from £126,000 to 200,000 per annum, and the people of the Commonwealth have consented to virtually unlimited control over the expenditure being exercised by the Home authorities, and also to the sphere of action of the ships being no longer circumscribed. So they may be thousands of miles distant from Australia in time of crisis. Our naval critics should remember, too, that at any important time we have in actual fact no voice whatever—not the slightest vestige of influence, or a jot or tittle of representation—in the spending of the money contributed to the Navy; and as Mr. Balfour recently reminded a deputation from Poplar, this is a serious consideration. When, further, we hear that we Australians are “sponging” and “loafing”—for these opprobrious terms have been directed against us—upon the old Mother Country for the defence of our shores, such an accusation is bound to extort an indignant disclaimer. We are not doing anything of the kind. Though the possibility of a successful invasion of Australia is said by authorities to be only the remotest contingency, on account of the distance of the Commonwealth from the bases of aggressive foreign nations, we realise that the Navy must always be the first

line of defence in a country girt by the sea and surrounded by shipping, as Australia is. The expenditure upon the King's ships is, however, only a small proportion of the Commonwealth's contributions towards the total cost of defence. During the current year, for instance, it is to expend £800,000 in addition to the subsidy to the Auxiliary Squadron, or altogether £1,000,000 sterling; and this is independent of the large amounts spent by thousands of private citizens upon Defence Rifle Clubs, mounted and otherwise. Is it not self-evident, further, that if Australia were partly or wholly occupied by a foreign Power, Great Britain would have to pay for its ships and other defences in Australian waters infinitely more than it pays now? This aspect of the question was recognised early in the last century, even before the greater part of Australia was populated at all, in the establishment by the Imperial Government of long since abandoned fortifications near to Port Darwin, for the purpose of keeping open and safe the trade routes between China and the South Seas. One may appositely inquire, too, why such an outcry should be raised against Australia with reference to the alleged smallness of its naval contributions, when for many years South Africa and Canada paid nothing whatever on these accounts into the common fund of the Empire. Yet those countries are flanked, to an extent unknown in Australia, by the territories of foreign, and possibly hostile, Powers, whose presence constitutes a problem of peculiar difficulty. There would, moreover, be practically no such trouble now in proximity to Australian coasts if the prescient action of Australia many years ago in annexing the unsecured portions of New Guinea had not been vetoed by the Imperial Government, with the consequence that another foreign complication was introduced; and if our constant and importunate representations regarding the New Hebrides and adjacent islands had not been in large measure ignored by the Home authorities. If Australians can be convinced—not by a policy of scornful nagging and hectoring, but by legitimate argument—that their contributions to the Navy are inadequate, they will not hesitate to increase the grant, as they do not believe in the decidedly un-English device of getting something for nothing. But in the process of convincing them you should remember that Australia is perfectly self-contained; that, if it is important to her to have her produce conveyed to purchasers across the seas, the

conveyance of that produce is even more important to those purchasers, who own the ships which carry the Australian goods to the Old Country and the Old Country's goods to Australia—ships which are manned not by Australians or other Britons, but largely by foreigners—and that the English money-lender holds upon Australia and Australians a heavy mortgage, represented by seven or eight millions sterling annually, in interest on State debts, besides probably as much more on private account. Will somebody tell us, since so much has been heard on the other side, what the Old Country really spends upon the people of the Commonwealth, and so demonstrate whether there is any sufficient ground for the constant and vexatious complaints of niggardliness which are directed against us, mostly by people unacquainted with the facts? You should remember that, quite irrespective of the million and more than Australia is spending annually upon defence, it is fighting the battle of Empire in other directions. Civilization may go forward on a powder-cart, but it has other vehicles too. The stalwart men and women who are subduing the wilderness in the back-blocks, amid displays of patient bravery excelling many which have been rewarded with the Victoria Cross, are making homes for thousands of brother-Britons on this side of the Southern Ocean, and those who at the outposts expand the Empire as verily defend it as those who keep watch and ward over that which has already been attained.”

THE GOLD OUTPUT AND INTEREST RATES.

REFERENCE was made in the last number of the JOURNAL to the problems arising out of the recent large increases in the annual output of gold in the world. The question that has been agitating the minds of many serious thinkers on both sides of the Atlantic recently is, What is likely to be the effect on interest rates and investment values? This is not a question easy to answer. Abundant gold should mean abundant bank reserves, abundant loan funds, and, apparently, low rates for loans. Thus argue some of those who discuss this problem. But there is another line of argument which is advanced, and which demands the most careful consideration. It is, in brief, that loans of money are but a convenient way of arranging loans of capital in the broader sense of that term. Now, if, owing to increase in gold supplies, the level of general prices is raised, what kind of effects are likely to follow in reference to demand and supply of capital?

If a borrower finds that goods rise in value on his hands, will he not be ready to assent to a higher loan rate on the funds with which he purchases these goods? If his normal operations with the goods, assuming no change in price-level touching them, enable him to pay six per cent. for money to be used in his business, what will he be able to pay if he may confidently anticipate a rise in the selling price of his goods between the date of his purchases and that of his sales? If the selling price be advancing at the rate of about two per cent. per annum, he can, it is argued, afford to pay seven-and-a-half or eight per cent. for loans, as well as he could afford to pay six per cent. with steady prices. On the side of the lender, the command of money over goods being in process of reduction, the repayment of the simple amount lent will leave a smaller purchasing power in the hands of the lender than that represented by the same amount of money at the time of making the loan. To secure compensation for this loss in the

command over purchasable goods represented by a stated sum in money, lenders will need to demand, not merely the rate which represents interest in commodities on commodities lent, but so much more as will cover the depreciation of gold as compared with commodities. If this line of argument be accepted, to the extent to which increased gold production becomes reflected in a rise of general prices, the rate of interest on money loans will tend to a higher level, so long as such a rise of prices is in progress.

It is claimed that the theory here laid down in outline is reflected in the experience of the business world,—that rising prices have been accompanied by higher rates of return on money loans than a steady price-level, whether high or low, and that falling prices have been accompanied by lower rates. Admitting this, the fall in value of fixed-interest-bearing securities in recent years finds an explanation in increasing gold output, and the near future may be expected to show no return to the low values of money current about ten years ago. Mr. Goschen's great conversion of 1888, on this basis, was effected at a most convenient juncture of events, and British consols need not be expected to regain the inflated value of ante-war times, even though the position of the national finances should vastly improve. The efficiency of the sinking-fund in redeeming debt will be enlarged so long as the market-value of the debt is below par, and the critics of the process of buying up consols at a high premium, who were loudly heard a few years ago, will find the ground cut from under their feet. A change in the comparative market value of bonds, whether government, railway or other, and industrial stocks, will also be a part of the consequences, important to capitalists, of the growth in gold-mining. Not to go into any great detail, the rise in prices may be expected to increase industrial profits, quite apart from all other influences, so that stocks will resist the depression of market values which is the apparent outlook for bonds, and may even tend to appreciate.

In view of such important consequences to investors and to borrowers, the question of gold output is not one that can be put aside. We have no longer the bi-metallic question to consider, but some of the points to which attention was directed while that controversy raged are still with us. The measure of the rise in prices which the continuance of such an annual

production of gold as that now attained, and its prospective increase, may support, cannot be determined with any exactitude. A recent Swedish writer has estimated that, for the maintenance of a price-level unchanged on the average, an annual increase of gold stocks by 2.65 per cent. has been necessary according to the last half-century's experience. As the world's gold stock in 1900 has been estimated at nearly 9,000 millions of dollars, nearly 240 millions out of last year's 347 millions would, on this showing, be needed simply to prevent a decrease of average prices. In 26 years, the additions to the stock of gold would need to be as great as the entire present stock, in order to maintain prices. At present a surplus over the amount indicated is forthcoming, and that surplus seems likely to be even greater in the immediate future. But the rise of prices depends, not on the total output of a year or series of years, but on the excess of that output over the 2.65 per cent. per annum rate on the actual stock.

Whatever validity may attach to the preceding theories and estimates, it is certainly a very remarkable thing that, in the face of the unprecedented rate of production of gold at the present time, the need for it for the purpose of bank reserves is sharply felt. Comparing the first week in November in 1905 with the corresponding week of 1904, the amount of the gold held by the six chief banks of Europe, the banks of England, France, Germany, Russia, Austria-Hungary and Italy, has increased by only thirty million dollars, or about two per cent., while the specie held by the associated banks of New York has decreased by more than forty million dollars. These seven great gold holdings, then, are less in the aggregate than they were a year ago, in spite of the increase of nearly sixty millions in the gold held by the Bank of France.

S. J. C.

THE LEGAL RESPONSIBILITY IN INDUCING A STRIKE.

CHARLES M. HOLT, K.C.

The liability to damages for inducing strikes has been the subject of some recent jurisprudence. A decision of the House of Lords, given in April last,* throws an interesting light on the subject, and shows that even a strike ordered from the best of motives, stands on a footing of illegality and liability for damages. Good faith and honest intent are not elements which the law will recognize as giving a right to induce a breach of contract between an employer and its employees. On the other hand, there are cases where the law will recognize that the special position of the interferer gives him a legal right to induce the breach of contract.

The facts in the case in question were as follows:—

The action was brought by the plaintiffs as owners of collieries against the South Wales Miners' Federation and certain individual members of it, upon the following grounds set out in the statement of claim: "That the defendants, well knowing the terms and conditions of the contracts of service under which the workmen employed at the collieries of the plaintiffs were working, wrongfully and maliciously, by causing notice to be given to the workmen employed at the plaintiffs' collieries, procured and induced the said workmen to break their contracts of service with the plaintiffs, and in breach thereof to abstain without giving due notice from working at the said collieries on certain days . . . and the workmen employed at the said collieries did, by reason of such procurement and inducement, and in breach of their contracts of service with their employers, abstain without due notice from working at the said collieries."

The defendants, in addition to denying the above allegation, amongst other arguments alleged that they acted in the

* South Wales Miners' Fed. and Glamorgan Coal Co., L.R. Ap. Cas., 1905, p. 239.

bona fide belief that the course of action advised by them would greatly benefit both the plaintiffs and defendants, and that they, the defendants, had reasonable justification and excuse for the course pursued by them.

The first question to be determined was, Did the defendants procure and induce the plaintiffs' workmen to break their contracts of service? This question was answered in the affirmative by the House of Lords.

On November 5, 1900, the following resolution was passed by the defendants' federation: "It was unanimously resolved to order a stop-day on Friday next, and that a conference be held on Monday next to decide upon any future action." On the same day a manifesto was issued by the federation addressed to the workmen, in which it is stated, "We have unanimously resolved that a general holiday be taken throughout the coal-fields by all colliery workmen on Friday, November 9th, 1900." The colliers carried out the resolution of the federation, over 100,000 going out, and the stop-day took place. The employers protested, and warned the workmen that if such stoppage of work was repeated legal remedy would be sought.

In October, 1901, steps were taken by the federation to cause the workmen again to stop work, but the so-called Taft Vale case having been determined in July, 1901, the danger of legal liability was apparent, and the federation, therefore, slightly disguised themselves as being the workmen's members of the sliding scale committee. But this disguise was scarcely maintained.

On October 15, 1901, Mr. W. Brace, as vice-president of the defendants' federation, in a speech said that in certain events "the executive council of the federation, in whom power was vested by the whole workmen according to a conference resolution would unhesitatingly declare a series of stoppages with a view to regulate the supply according to the demand."

On October 29, 1901, the following resolution was passed by those who called themselves the workmen's representatives of the sliding scale joint committee: "It is unanimously resolved to issue instructions to the workmen to observe Thursday next as a general holiday at all the collieries throughout the South Wales coalfield."

On October 23, October 29, and November 4, 1901, telegrams were sent on behalf of the executive council to the repre-

sentatives of the different branches in the following form:—
October 23: "Sliding scale committee has decided that all collieries must observe Friday and Saturday next as a general holiday." October 29: "Men must be idle Thursday next." November 4: "Stop next Wednesday."

In addition to these communications evidence was given which justified the certain conclusion that the defendants did more than advise the workmen upon the subject of these stop-days. No doubt there was, by the rules of the federation, a general duty cast upon it "To take into consideration the question of trade and wages, and to protect workmen generally, and to regulate the relation between them and employers," and these somewhat indefinite words might justify advice being given by the executive council to the workmen. Still there remained the question, Can it be lawful to advise the unlawfully breaking of a contract of service? But, be this as it may, it was established that both in 1900 and 1901 responsible officers of the federation did far more than give advice. They initiated, they directed, and they gave orders, so that it is correct to employ the legal term, and say that they induced and procured the workmen to break contracts.

As the defendants' acts amounted to inducing and procuring, a great portion of the able arguments placed before the House of Lords on behalf of the appellants was held of no avail. It is true that great difficulty arises when hypothetical cases are suggested of advice given under a great moral sense of right, or where great good would result from a contract being broken, or where the claims of relationship or guardianship demand an interference amounting to protection. Each of such cases must be determined as it arises, but upon the facts as found in this case no such difficulties arose. The action of the defendants in going to the extent of inducing and procuring the commission of an unlawful act places them in a very different position to that occupied by a person whose duty it is to offer advice to one who needs to be guided or protected.

This view being correct, the allegation in the statement of claim, that the defendants induced and procured the workmen to break their contracts, was held established. It was admitted that the workmen in so acting committed an unlawful act, that in consequence the employers sustained damage, and that the defendants had notice of such contracts, and of the

consequences of the breach. It yet remained to deal with the words "wrongfully and maliciously" as averred in the statement of claim.

As to the word "wrongfully" no difficulty arose. If the breach of the contract of service by the workmen was an unlawful act, any one who induces and procures the workmen, without just cause or excuse, to break such contract also acts unlawfully, and thus the allegation that the act done was wrongfully was established.

But the word "maliciously" had also to be dealt with. The judgment of the first Court proceeded on the ground that "to support an action for procuring a breach of contract it is essential to prove actual malice."

The House of Lords did not concur in this view of the law. The word "maliciously" is often employed in criminal and civil pleadings without proof of actual malice apart from the commission of the act complained of being required. If A. utters a slander of B., even if he be a stranger to him, the averment that A. maliciously spoke such words of B. is established by simply proving the uttering of the words taken to be false until the contrary be proved. In such an action the word "maliciously" may be treated either as an unnecessary averment or as being proved by inference drawn from the proof of the act being wrongfully committed.

In *Bowen v. Hall*, Brett, L.J., with the sanction of Lord Selborne, thus expressed his view: "Wherever a man does an act which in law and in fact is a wrongful act, and such an act as may as a natural and probable consequence of it produce injury to another, and which in the particular case does produce such an injury, an action on the case will lie."

In the *Mogul* case, Bowen, L.J., also said: "Now, intentionally to do that which is calculated in the ordinary course of events to damage, and which does in fact damage, another in that other person's property or trade, is actionable if done without just cause or excuse."

And in *Quinn v. Leatham*, Lord Macnaghten thus defined the law on the subject: "A violation of legal right committed knowingly in a cause of action, and it is a violation of legal right to interfere with contracted relations recognized by law, if there be no sufficient justification for the interference."

It will be observed that none of these three very learned judges employ the word "maliciously" as being necessary in order to constitute a right of action.

But a further question had to be disposed of. At the trial and at the bar of the House of Lords, the counsel for the appellants contended that their clients had good cause and excuse for the alleged unlawful act they committed. That such justifications—such "good cause and excuse"—may exist is, a sound proposition. The above words of Lord Macnaghten and of Bowen, L.J., so declare. The facts upon which this attempted justification in this case were based are above recited. In one sense the defendants acted in good faith. They honestly believed that the stoppage of work they resolved upon would increase the price of coal and so benefit both the workmen and the employers. Towards their employers the defendants entertained no malice. At the same time they knew that the employers had given notice of their objection to any such stoppage of work. And so the federation not only advised, but resolved and ordered that the workmen should break their contracts under conditions that would constitute an unlawful act in the men. As far as the defendants could exercise control the men were not allowed to make use of their own discretion. In order, therefore, to establish the existence of good cause and excuse all the defendants could say was, "We, the federation, had the duty cast upon us to advise the workmen. We did advise them to commit an unlawful act, but in giving that advice we honestly believed that they would be in a better financial position than if they acted lawfully and fulfilled their contracts." Even if it be assumed that such allegations are correct in fact, no justification in law is established by them. The intention of the defendants was directly to procure the breach of contracts. The fact that their motives were good in the interests of those they moved to action, does not form any answer to those who have suffered from the unlawful act. During the arguments before the House of Lords no sufficient distinction seems to have been drawn between the intention and the motives of the defendants. Their intention clearly was that the workmen should break their contracts. The defendants' motives, no doubt, were that by so doing, wages should be raised. But if in carrying out the intention the defendants purposely procured an unlawful act to

be committed, the wrong that is thereby inflicted cannot be obliterated by the existence of a motive to secure a money benefit to the wrong-doers.

It is useless to conceal the fact that an organized body of men working together can produce results very different from those which can be produced by an individual without assistance. Moreover, laws adapted to individuals not acting in concert with others require modification and extension if they are to be applied with effect to large bodies of persons acting in concert. The English law of conspiracy is based upon and is justified by this undeniable truth.

But the possession of great power, whether by one person or many, is quite as consistent with its lawful as with its unlawful employment; and there is no legal presumption that it will be or has been unlawfully exercised in any particular case. Some illegal act must be proved to be threatened and intended, or to have been committed, before any court of justice in the United Kingdom can properly make such conduct the basis of any decision.

These remarks are as applicable to trade unions as to other less powerful organization. Their power to intimidate and coerce is undoubted; its exercise is comparatively easy and probable; but it would be wrong on this account to treat their conduct as illegal in any particular case without proof of further facts which makes it so. It is not incumbent on a trade union to rebut any presumption of illegality based only on their power to do wrong. Freedom necessarily involves such a power; but the mere fact of its existence does not justify any legal presumption that it will be abused.

In this case there was proof that the members of the mining federation combined to break and did break their contracts with their employers by stopping work without proper notice and without proper leave. There was also proof that the officials of the federation assisted the men to do this by ordering them to stop work on particular days named by the officials. To break a contract is an unlawful act, or, in the language of Lord Watson in *Allen v. Flood*, "a breach of contract is in itself a legal wrong." The form of action for such a wrong is quite immaterial in considering the general question of the legality or illegality of a breach of contract. Any party to a contract can break it if he chooses; but in point of law he is not

entitled to break it even on offering to pay damages. . If he wants to entitle himself to do that he must stipulate for an option to that effect. Non-lawyers are apt to think that everything is lawful which is not criminally punishable; but this is an entire misconception. A breach of contract would not be actionable if nothing legally wrong was involved in the breach.

The federation by its officials were clearly proved in this case to have been engaged in intentionally assisting in the concerted breach of a number of contracts entered into by workmen belonging to the federation.. This was clearly unlawful according to *Lumley v. Gye*, and *Quinn v. Leathem*, and the more recent case of *Read v. Friendly Society of Stone-masons*. Nor is this conclusion opposed to *Allen v. Flood*, or the *Mogul Steamship Company's Case*, where there was no unlawful act committed.

The appellants' counsel did not deny that, in his view of the case, the defendants' conduct required justification, and it was contended (1) that all which the officials did was to advise the men, and (2) that the officials owed a duty to the men to advise and assist them as they did.

As regards advice, it is not necessary to consider when, if ever, mere advice to do an unlawful act is actionable when the advice is not libellous or slanderous. Nor is it necessary to consider those cases in which a person, whose rights will be violated if a contract is performed, is justified in endeavouring to procure a breach of such contract. Nor is it necessary to consider what a parent or guardian may do to protect his child or ward. That there are cases in which it is not actionable to exhort a person to break a contract may be admitted; and it is very difficult to draw a sharp line separating all such cases from all others. But the so-called advice here was much more than counsel; it was accompanied by orders to stop, which could not be disobeyed with impunity. A refusal to stop work as ordered would have been regarded as disloyal to the federation. This is plain from the speeches given in evidence on the trial; and was a very important element in the case.

As regards duty the question immediately arises—duty to do what? The defendants have to justify a particular line of conduct, which was wrongful, *i.e.*, aiding and abetting the men in doing what both the men and the officials knew was legally wrong. The constitution of the union may have rendered it

the duty of the officials to advise the men what could be legally done to protect their own interests; but a legal duty to do what is illegal and known so to be is a contradiction in terms. A similar argument was urged without success in the case of the Friendly Society of Stonemasons already referred to.

Then it was argued that there was a moral or social duty on the part of the officials to do what they did, and that, as they acted *bona fide* in the interest of the men and without any ill-will to the employers, their conduct was justifiable; and the Court was asked to treat this case as if it were like a case of libel or slander on a privileged occasion. This contention was held not on authority, and its only merits are its novelty and ingenuity. The analogy is misleading, and to give effect to this contention would be to legislate and introduce an entirely new law, and not to expound the law as it is at present. It would be to render many acts lawful which, as the law stands, are clearly unlawful.

Bearing in mind that "malice" may or may not be used to denote ill-will, and that in legal language presumptive or implied malice is distinguishable from express malice, it conduces to clearness in discussing such cases as these to drop the word "malice" altogether, and to substitute for it the meaning, which is really intended to be conveyed by it. Its use may be necessary in drawing indictments; but when all that is meant by malice is an intention to commit an unlawful act without reference to spite or ill-feeling, it is better to drop the word malice and so avoid all misunderstanding.

The cases where the legal right to interfere exists would form an interesting subject of study, but too long a one, for the purposes of the present paper.

THE BANK CHANGES OF FIVE YEARS.

New Banks Chartered in past Three Years.

Capital Authorized.	1903	
\$5,000,000	The Alliance Bank of Canada.....3	Ed. VII—C. 79 Extended in 1904. Expired 1st July, 1905.
1,000,000	The Bank of Winnipeg.....3	Ed. VII—C. 83 Apparently expired.
2,000,000	The Citizens Bank of Canada.....3	Ed. VII—C. 106 Extended in 1905.
1,000,000	The City & County Bank of Canada.....3	Ed. VII—C. 107 Taken over by the Crown Bank.
1,000,000	The Home Bank of Canada.....3	Ed. VII—C. 127 Extended in 1904. Now in business.
2,000,000	The Northern Bank	3 Ed. VII—C. 168 Extended in 1905. Now in business.
2,000,000	The Pacific Bank of Canada.....3	Ed. VII—C. 174 Extended in 1905. Acquired by United Empire Bank.
1,000,000	The Sterling Bank of Canada.....3	Ed. VII—C. 194 Reconstructed in 1905.
		1904.
1,000,000	The Farmers Bank of Canada.....4	Ed. VII—C. 77 Extended in 1905.
		1905.
2,000,000	The Monarch Bank of Canada.....5	Ed. VII—C. 125 Not yet in business.
1,000,000	The Sterling Bank of Canada.....5	Ed. VII—C. 160 Not yet in business.

Banks Absorbed or Failed since 1900.

Bank of Yarmouth; failed.

The Halifax Banking Company; absorbed by Bank of Commerce.

The Exchange Bank of Yarmouth; absorbed by Bank of Montreal.

The Peoples Bank of Halifax; absorbed by Bank of Montreal.

The Commercial Bank of Windsor; absorbed by Union Bank of
Halifax.

The Summerside Bank; absorbed by Bank of New Brunswick.

Banks which have begun operations since 1900.

The Sovereign Bank of Canada.

The Metropolitan Bank.

The Crown Bank.

The Home Bank.

The Northern Bank.

SOME PARTICULARS OF NOTE CIRCULATION.—1902-1905.

	CIRCULATION				CAPITAL				BALANCE AVAILABLE				Notes of other Banks on hand
	1902	1903	1904	1905	1902	1903	1904	1905	1902	1903	1904	1905	
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
January.....	48,586	55,041	56,973	57,760	67,621	72,855	78,625	79,931	19,000	16,598	21,117	20,954	4,548
February.....	49,451	55,746	57,736	58,776	68,041	72,931	78,701	81,131	19,000	15,992	19,749	21,139	4,684
March.....	52,443	58,233	59,760	58,693	68,407	74,776	78,723	81,254	16,000	15,276	17,747	21,344	4,472
April.....	50,692	55,878	58,650	59,920	68,474	75,444	78,738	81,313	18,000	18,349	18,871	20,177	4,345
May.. ..	50,755	56,919	57,857	58,116	69,353	75,979	78,801	81,465	18,000	17,913	19,727	22,132	5,130
June.....	53,953	58,866	60,098	61,586	69,584	75,905	79,193	82,600	14,414	15,823	17,878	19,792	4,696
July	52,070	57,564	59,980	61,275	69,734	76,971	79,268	82,428	16,447	18,191	18,071	19,936	5,259
August.....	55,036	60,415	60,227	62,495	70,196	77,431	79,458	82,672	13,944	15,850	18,015	18,959	4,230
September	60,966	63,741	63,796	69,820	70,989	77,998	79,643	83,063	8,807	13,040	14,630	12,626	5,504
*October.....	65,929	70,431	72,226	76,808	71,281	78,255	79,747	83,503	4,779	7,239	6,985	6,510	7,160
November.....	64,498	67,425	69,427	72,543	71,928	78,396	79,851	83,690	6,614	10,435	9,889	11,061	5,619

(.000 omitted).

The above table forms an interesting study, and would seem to remove the question of sufficiency of circulation from the arena of discussion for a few years to come.

SUCCESSION DUTIES.

The JOURNAL has, upon several occasions, been asked for information respecting succession duties, and, for the information of its readers, prints below an extract from an Act to remove doubts respecting succession duties which was assented to by Parliament on the 25th April, 1903.

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

R. S. 1191 b amended.

Article 1191 *b* of the Revised Statutes, as enacted by the Act 55-56 Victoria, Chapter 17, Section 1, replaced by Act 57 Victoria, Chapter 16, Section 2, and amended by the Acts 58 Victoria, Chapter 16, Section 1, and 59 Victoria, Chapter 17, Section 1, is further amended, by adding thereto the following clause:—

“Property defined.

“The word ‘property’ within the meaning of this Act shall include all property, whether moveable or immoveable, actually situate or owing within the Province, whether the deceased at the time of his death had his domicile within or without the Province, or whether the debt is payable within or without the Province, or whether the transmission takes place within or without the Province.”

R. S. 1191 b amended.

2. Article 1191 *d* of the Revised Statutes, as enacted by the Act 55-56 Victoria, Chapter 17, Section 1, and amended by the Acts 57 Victoria, Chapter 16, Section 3, and 58 Victoria, Chapter 16, Section 2, is further amended by adding after paragraph thereof, the following:

Where Declaration to be made, etc., in certain cases.

“1a. In cases of property in this Province of persons dying outside the Province, the Will shall be deposited and the declarations filed with the Collector of Provincial Revenue for any of the districts in which such property is situated.”

Coming into Force.

3. This Act will come into force on the day of its sanction,

BUSINESS MORALITY.

The Wall Street Summary says that a great deal of rhetoric has been expended in public and in private recently to the effect that American business methods had reached such a point of depravity as to make the few honest men left (chiefly college professors and other recluses from a sordid world) burn with shame for humanity and despair of civilization, and to disturb the slumbers of our righteous forefathers. There has been such harking back to "old-fashioned honesty" for purposes of comparison, and the further back the harking, the more does distance lend enchantment to the view. But this is nonsense so far, at least, as it is a generalization. The breaches of trust on the part of insurance company directors, the defalcations of bank officers and the unfaithfulness of government employees and public servants are just causes for sharp criticism and vigorous efforts for the punishment of the offenders, and for a remedy in each case. Every detail of corruption, rottenness and "graft" in high places should be exposed unmercifully, that the disease may be properly diagnosed from a full knowledge of symptoms. Criticism should be harsh, when warranted, and full discussion in the newspapers and by all other methods of arriving at conclusions is desirable to the end that public opinion may be properly informed and may become the power for good that it has always proved to be in the past and always will prove to be in the future. But, considering the complexity of present-day industrial affairs and the enormous scale upon which business is frequently conducted, with the natural, though incidental, temptation to departures from strict ethical standards that are presented in such profusion, the average of business morals remains high. As a matter of fact, no more encouraging facts could be conceived than the profound indignation and the disturbance of confidence that each case of betrayal of trust or of dishonesty produces. Public opinion to-day is a more powerful corrective of abuses of any kind than it ever has been before in the history of the world, and there is no just reason to believe that it will prove any more incapable of dealing with moral disease than it has proved to be in the past.

QUESTIONS ON POINTS OF PRACTICAL INTEREST.

THE Editing Committee are prepared to reply through this column to enquiries of subscribers from time to time on matters of law or banking practice, under the advice of Council where the law is not clearly established.

In order to make this service of additional value the Committee will reply direct by letter where an opinion is desired promptly, in which case stamp should be enclosed.

The answers received since the last issue of the JOURNAL are appended, together with the answers of the Committee :

Bills of Lading attached to Time Drafts—Deliver on payment only.

QUESTION 616.—We are advised by our Boston correspondents that it is their established custom, confirmed by decision of the Supreme Court of the United States, that bills of lading, etc., attached to time drafts, have to be delivered to the drawees on acceptance, in all instances in which no instructions to the contrary have been received.

Would any such procedure be in order in this country?

ANSWER.—No, it would not. The practice in Canada is to deliver documents on payment only.

Draft presented in acceptance—What is material alteration.

QUESTION 617.—A draft is drawn by Jones & Co., Winnipeg, on Bangs & Co., Munich, payable in body of draft at Bank of Winnipeg, Winnipeg, and is presented to the drawees who accept it, payable at their bankers in Munich, which acceptance the drawers decline to take. Does this constitute a valid acceptance, or is it a material alteration of the bill?

ANSWER.—Section 19—2a of the Bills of Exchange Act states that “an acceptance to pay at a particular specified place

is not conditional or qualified," and Section 63—2 says, "alteration of the place of payment is a material alteration."

We are inclined to the opinion that the change made by the drawee of the bill at the time of its acceptance is a material alteration and should be considered a qualified acceptance, and that the holder could refuse it, and protest the bill. The matter is, however, owing to the language of the clauses cited, open to considerable doubt, and we have not been able to find any decision of our own Courts since the coming into force of the Act.

Interest and Exchange—Methods of calculating same.

QUESTION 618.—(1) What interest would I have to pay on a loan of one million at 6 per cent. in Montreal, for one day?

(2) One million dollars at 6 per cent. for one day in New York?

(3) One million dollars at 6 per cent. for one day in London, Eng.?

(4) How am I to find value of £ sterling without an exchange book, if given a premium rate of, say 9 7-16?

(5) Is your statement correct, in your editorial notice in the JOURNAL for October, 1905, when you say over twenty million dollars was destroyed by the banks last year?

ANSWER.—(1, 2 and 3) In Montreal 1-365 of \$60,000 = \$164.38; in New York 1-360 of \$60,000 = \$166.66; in London, England, one day's interest is calculated in same way as in Montreal.

(4) 9 7-16 is a premium to be added to the par of exchange. A simple and short rule by which to make the calculation is to work it decimally thus: $9 \frac{7}{16} = 109.4375$, multiplied by 4 and divided by 90 produces 4.86.388.

(5) Yes.

Acceptances—Is a bank justified in paying if made payable at bank.

QUESTION 619.—1 (a) May an acceptance or note made payable at a certain bank be charged by that bank to the customer's account at maturity without special instructions from the customer?

(b) Does the acceptance of a draft payable at a certain bank constitute an order on the bank to pay said draft at maturity 'without further instructions?

2. Bank A. in Vancouver receives for collection from Bank B. in Montreal a draft drawn at three months date on a certain firm. This was accepted in due course, payable at Bank C. By an error on the part of Bank A.'s collection clerk, draft was marked in blue pencil *due October 26th*, instead of real due date, December 18th. Draft was diaried and presented for payment on October 26th 'by Bank A. to Bank C., who paid the draft, charging it to the customer's account. Bank A. remitted the following day to Bank B. in the usual manner. On the 21st November Bank C. demands refund of the amount from Bank A. as their customer had just discovered the charge and required the money refunded. Bank A declined to refund money until they could get word from Bank B. in Montreal. to whom they offered to write, or telegraph at Bank C.'s expense. Bank C.. however, demanded immediate payment, claiming that the fault lay as much with Bank A. as with themselves.

Were they justified in making peremptory demand for the amount, considering that the fault in paying draft before maturity lay with themselves? and

Would not Bank A. be right in refusing to refund amount on demand without first referring to Bank B?

ANSWER.—(a and b) In the Province of Quebec a note made payable or draft accepted payable at a particular bank is not an order to that bank by its customer to charge the note or acceptance to his account, and it would be imprudent to do so without a specific or general authority from the bank's customer.

2. Under the circumstances Bank C. was not entitled to an immediate refund. Bank A. acting as collecting agent only, had parted with the money received from Bank C., and were quite within their rights in refusing to refund without referring to Bank B.

Acceptances—Time within which drafts should be accepted.

QUESTION 620.—A bank here receives a draft for, say, \$700 drawn at 4 months date with N. P. instructions on 2nd October, presented for acceptance on that date, received back

on October 4th, acceptance refused late in the afternoon. Does the bank incur any responsibility if they return on 5th October to the bank received from. Is it absolutely necessary that a bill be accepted or returned refused at the expiration of 48 hours, or instructions written for?

In the case of a *time draft*, the house drawing would have their book debt against drawee, subject, of course, to confirmation.

Sight bills, negligence might be accused by not acting on the 48 hour limit. I ask this point, as few instructions are given in relation to time bills, as to time to hold.

(b) Another point I would like cleared: A sight bill with bill of lading attached, to be surrendered on payment, if it be not accepted inside of 48 hours, should the bank sending be notified that the goods have not arrived on the third day, or is it inferred that when a bill of lading is attached, that draft should be held a reasonable time for the arrival of goods.

In the West it seems a most difficult matter to act up to the time allowed, as I understand it, from Bank Act.

ANSWER.—(a) A draft should either be accepted within the 48 hour limit, or else if dishonoured, returned whence it came. Obviously, to return it on the next day thereafter is a day too late, and if it did not come back to them by mail in proper course the bank from which the draft originated would have some justification for inferring that it had been accepted. That any serious claim should be set up for lack of diligence, especially in the case of a “no protest” bill is, however, another matter. “No Protest” is virtually a waiver of protest.

(b) No such inference exists, and it would be hazardous to presume to the contrary. The notification and retention of a draft under the circumstances is an act of courtesy, for which there is no provision in the Bills of Exchange Act.

Irregularity of Endorsement.

QUESTION 621.—I beg to submit, for the favour of your

judgment, the following endorsement of a cheque payable to Domestic Spice Co.:—

Pay to the order of

THE MERCHANTS BANK OF CANADA,

Domestic Spice Co.

D. J. Trent.

The endorsement is made by a rubber stamp, and the name, "D. J. Trent." written in ink. Will you please say if it is an irregular endorsement within the meaning of the rules laid down by the Bankers' Association?

ANSWER.—It is an irregular endorsement in that it does not state the official position of the person signing on behalf of the corporation.

"At sight without grace" payable on demand.

QUESTION 622.—Would the acceptor of a draft drawn "At sight without grace" be entitled to the usual three days of grace?

ANSWER.—No, the bill is practically payable on demand.

Liability for mistake in due-dating bill received for collection.

QUESTION 623.—On August 4, 1905, A. (in Prince Edward Island) makes a draft on B. (in Nova Scotia) for \$60.00, payable 45 days after date, due September 21, and discounts, same at Bank C. Bank C. forwards it for collection to Bank D. Bank C. in error places a due date on bill, *October 21*. Bank D. overlooks error, and enters it up as due October 21. B. transfers his property to E. on September 22, and gives a bill of sale on September 21 on his stock. On September 28 Bank C. asks Bank D. to advise fate of bill, and Bank D. returns bill unpaid in letter dated September 30. Bank C. then presents bill to A. for payment, and A replies that he is legally clear of bill and would not retire same, and said D. should have returned bill at maturity, and that Bank C. will have to collect bill from Bank D. Bank C. immediately returned bill

to Bank D. for payment and they refuse, claiming they are not liable.

Kindly advise who, in your opinion, is legally liable for the bill?

ANSWER.—Bank D. appears to be legally liable. We are assuming that the bill was sent subject to protest.

ANOTHER WAY.

The following is a short cut that I have been using satisfactorily for several years, to find out the par value in dollars and cents of a given amount in pounds, shillings and pence.

As everybody knows that a pound at par is worth \$4.86 $\frac{2}{3}$, I decompose that amount by taking as a base the old Halifax currency of \$4.00 for £1-0-0, 20 cents for one shilling, and .01 $\frac{2}{3}$ for one penny, and I find that £1-0-0 calculated that way gives me:

£1-0-0 equal to \$4.00. Dividing by five (15) equal to .80. Above divided by twelve (1-12) equal to .06 $\frac{2}{3}$. Total \$4.86 $\frac{2}{3}$.

Supposing I want to find out what is the par value of £10-10-9, I would say by using the Halifax currency:

£10 equal to \$40.00. Shillings 10 equal to \$2.00. Pence (9) equal to .15—\$42.15. \$42.15 divided by five will give \$8.43; \$8.43 divided by 12 will give .70 $\frac{1}{4}$; total \$51.28 $\frac{1}{4}$. I know quickly and without reference to an exchange table that £10-10-9 is worth at par \$51.28 $\frac{1}{4}$.—Henry Viau, in *System*.

17
CORRESPONDENCE.

THE CANADIAN BANK OF COMMERCE.

Victoria, B.C., 27th November, 1905.

*The Secretary,
Canadian Bankers' Association,
Montreal.*

Dear Sir:

We think the following item may be of some interest to you or the readers of the JOURNAL. After Clearing House to-day the balance in favour of this bank was eight cents. We are not aware a Clearing House balance has ever been so close.

Yours faithfully,

C. W. FOSTER,
p. Manager.

Records of Montreal Clearing House show no balance so near the vanishing point as the above.—EDITOR.

BOOKS ON LEGAL SUBJECTS AND SUBJECTS RELATED TO BANKING

APPROVED BY THE JOURNAL QUESTIONS COMMITTEE.

MACLAREN'S "BANKS AND BANKING." The Bank Act, with Notes and Discussions; the law relating to Cheques, Warehouse Receipts, Bills of Lading, etc. 1901. Price, \$4.50.

MACLAREN'S "BILLS, NOTES AND CHEQUES." The Bills of Exchange Act, 1890, Canada, and the Amending Act of 1891, with Notes and Illustrations from Canadian, English and American Decisions, and references to Ancient and Modern French Law. By J. J. Maclaren, Q.C., D.C.L., Justice of the Ontario Court of Appeal. Third edition, 1904. Price, \$5.50.

HART'S "LAW OF BANKING." Being a comprehensive statement of the living Law of Banking. 1904. Price, \$8.00.

PAGET'S "LAW OF BANKING." Being an able summary of the Law of Cheques and the other peculiarities of the Bankers' position. 1904. Price, \$3.25.

RAE'S "COUNTRY BANKER." His Clients, Cares and Work. Fifth edition. Price, \$1.00, post paid.

GILBERT: "HISTORY, PRINCIPLES AND PRACTICE OF BANKING." Two vols. Price, \$3.00.

Subscribers to the Journal may obtain the above books at a discount of 10 per cent. from The Carswell Company, Limited, Law Book Publishers, Toronto.

JOURNAL

OF THE

CANADIAN BANKERS'

ASSOCIATION

APRIL—1906.

EDITORIAL NOTES

The JOURNAL has frequently been requested to express an opinion upon the extraordinary multiplication of branches, the creation of new banks, and the necessity for same.

Liability of Bank Shareholders

It is not easy to determine the chances of success attending the operations of the latter. They should prosper under prudent management. But good intentions without experience or ability are not sufficient to ensure safety and efficiency in the employment of money.

At present, natural conditions are favourable to a prolonged period of prosperity, and thereby an element of danger is created. That element is over confidence. The extraordinary growth in the business of the Dominion of Canada has not led to any revelation of inability on the part of the existing banks to keep pace therewith. Yet, perhaps, it is natural that, tempted by the success which several of our financial institutions have achieved, new banks should be organized. Indisputable evidence that the field is already more than occupied will not prevent industrious promoters from offering to investors stock in new

banks, and if these investors are not fully alive to the liability they assume as holders of bank stock, it is hardly the duty of the sellers of shares to impress the fact upon them. This important and interesting clause of the Bank Act ought to be made clear to them in no uncertain terms, however.

Possibly the best way of making shareholders mindful of their liability in case of insolvency, would be to print section 89 of the Bank Act on every stock certificate:—"In the event of the property and assets of a bank being insufficient to pay its debts and liabilities, each shareholder of the bank shall be liable for the deficiency to an amount equal to the par value of the shares held by him, in addition to any amount not paid up on such shares."

The main business of a Canadian bank is to receive deposits and to make loans, and the earning capacity is based on the cost of procuring and handling the deposits and the ability to lend same safely at good rates of interest. It seems so easy to manage a bank that, if it were not for occasional warnings, bank shares would be even more over-valued than they are at present.

To-day competition is so keen that breaches of conservatism, deviations from the path of prudence and caution in banking, are attracting attention all over the country. History does sometimes repeat itself. In these times of all round prosperity it would be well for bank managers to read Professor Shortt's History of Canadian Banking, and to reflect upon some events that dazed the banking and business world of Canada within the recollection of many bankers still living.

It is to be hoped that "statesmen" in Canada will not follow the lead of their United States brethren in the choice of terms wherewith to describe people with whom they cannot agree. It becomes a matter of the most serious nature, if attention to senatorial utterances cannot be obtained without the use of highly objectionable language.

Another
Instance.

Even a quarrel with invested capital can be conducted without the declaration made by Senator Tillman that the railways have become "the veriest band of robbers."

The bank clerk who was assaulted by a collector of debts for calling the latter an ornithorhyncus and who, when too late, explained that he simply intended a playful allusion to the occupation of his caller as one of a genus of mammals, as a beast with a bill, will sympathize with the Canadian senator, who was recently compelled to withdraw his description of a colleague as "a doddering, toothless old viper."

**Shocking
the
Senate.**

The little contretemps at Ottawa, of which a few racy particulars have flitted across the Dominion, instead of being regarded as a circumstance of peculiar atrocity, would have been accepted as a mere pleasantry had the offending statesman explained to his fellow members of the Senate what his single sentence of invective was intended to convey.

A rude reminder of advancing years can be overlooked, and even a playful charge of similitude to a toothless serpent may be borne with patience, but to be dubbed as "doddering" and left in doubt as to whether one is being likened unto a sheep, being without horns, or to a bit of bindweed, a parasitical plant, is not likely to be taken pleasantly even by the amiable gentlemen of the Senate of Ottawa.

There have been and are persons, carrying on the banking business in Canada in contravention of a certain criminal clause in the Bank Act, but owing to a curious interpretation of the 100th section of the Act it seems that to constitute an offence under the said section the exact word "Bank" must be used. If this contention is correct then a person by using the title "Bank" orthographically wrong such as "Banck" could evade the intended prohibition.

**The word
"Bank"**

The danger of permitting any doubt on this point to exist must be manifest, and it ought to be removed by legislation. If these so-called banks are permitted to receive deposits even from foreigners, the incidents that have been reported in the United States will occur in Canada—the "banker" will disappear between daylight and dawn, the duped depositor will be violent and inexcusably angry, and a sympathetic public will naturally want to know why the title "Bank" even if used in a foreign language is not a contravention of the Act.

If the word "banca" means "bank", it surely announces to labourers in Canada of Italian origin that the building bearing such a sign over its door is a bank.

Quiet submission to such a measure of taxation as that which was hurriedly enacted during the last few days of the recent brief session of the Legislature of the province of Quebec will prove prejudicial to the best interests of the people. Apathetic indifference to unjust discrimination on the part of governments in search of new sources of revenue can only lead to future trouble, and the impairment of net earnings of banks by ever-increasing taxation will ultimately result in decreased dividends, and a further reduction of the rate of interest on deposits.

**Taxing
the
Banks.**

A direct tax on the people of the provinces would almost be better than these hasty and ill-considered raids upon the banks to which their money is entrusted for safekeeping and prudent investment. Even if the plea of urgent need of more money for provincial housekeeping be accepted as the excuse for introducing a bill so obnoxious to those who know the value of cheap money for promoting the growth of enterprise and commercial industry in a new country, there should have been no failure on the part of the government to give ample opportunity to bankers to consider the demands made upon them for increased contributions to the treasury of the province.

Adam Smith has observed in regard to the evil effects of a bad national tax:—

“The capitalist is properly a citizen of the world and is not necessarily attached to any particular country. He would be apt to abandon the country in which he was exposed to a vexatious inquisition in order to be assessed to a burdensome tax, and would remove his capital to some other country where he could either carry on his business or enjoy his fortune more at his ease. By removing his capital he would put an end to all the industry which it had maintained in the country which he left.”

While it may not be possible for the chartered banks of the Dominion to transfer their capital to another country, the managers of our financial institutions cannot be expected to endure

**Taxation
of
Capital.**

with equanimity burdensome taxation of their stock in trade, viz., money. That the taxation of bank capital without reference to locality and its employment is recognized as unjustifiable by the Quebec law-makers has been made abundantly manifest by their every action since the closing of the Legislature.

The unwilling contributors to the Provincial Treasury have been virtually told that the increased burden of taxation placed upon them was not defensible but unavoidable. The bank

managers were informed that the province needed more money, and the only available prey in sight seemed to be the banks, insurance companies, manufacturing corporations, and capital generally.

The mere fact that banking capital not employed in the province of Quebec could not with any shadow of justice be levied upon, was totally ignored. The banks were simply requested to pay so much more money into the Treasury, without being given any time to consider the sudden demand.

That the scheme of taxation was quickly hatched, and received little if any consideration is abundantly proven by the aftermath. The Government has been eliciting opinions from those most concerned, and has told them that, if a better system of distribution of the tax can be devised, it will receive the careful consideration of the Legislature—so long as the total amount derivable from any proposed plan produces the revenue required from the banks.

A Tardy
Admission.

Several suggestions have been sent to Quebec having for their object a change in the method of taxing banks, among them being a transfer of the imposition of a proportion of the tax to deposits and reserve funds.

Among the replies to the request of the Provincial Treasurer for opinions upon the proper distribution of the increased taxation upon chartered banks, one at least contained a suspicion of ironical humour not usually found among bankers. The writer of the said reply informed the Provincial Treasurer, that the tax having been imposed upon the banks, and there being very little prospect of release therefrom, the question of its distribution, as submitted by the government, recalled the story of the fox asking a number of the feathered tribe with what sauc they would like to be eaten. The captured poultry answered that they had no desire to be eaten. The only reply vouchsafed by the fox was in the form of an intimation that they were wandering from the subject.

A deputation of bankers visited Quebec for the purpose of

protesting against the hasty and ill-advised action of Parliament, and the result of their remonstrance largely reduced the tax first proposed. Speaking for the members of the Canadian Bankers Association, the President of that body told the Premier of Quebec and his colleagues that bankers regarded the tax as indefensible in principle, and as "a radical departure from the simplicity and justice of the general system of taxation at one time common throughout the province of Quebec." At the time referred to, the only tax levied on the banks was the ordinary real estate tax, but some years ago direct taxation of banks was resorted to. An addition to the tax imposed on the banks will retard rather than assist the growth of the province, and cannot but prove prejudicial to the best interests of the people. A tax upon money will tend to stem its free flow, and must necessarily increase its cost. Dear money is a hindrance to trade and commerce, and a serious obstacle to industrial enterprise. A tax upon banking capital is ultimately borne by the users of money; by those engaged in developing the natural resources of the country; and by those who conduct business in the centres of population.

Under the circumstances, it is most regrettable that any government should lend itself to a revenue-producing scheme resulting in increasing the cost of money, and it is to be hoped that patient investigation and study may lead to the complete abandonment of taxation of money intended for use in the trade and commerce of this growing country.

The plea of Mr. F. Blake Crofton, for the reduction of postal rates on British journals and periodicals is timely.

**Thinking
Imperially** Mr. Crofton's reputation as a powerful writer upon Imperial Federation, the subject he has so eloquently advocated for many years, will render his contribution to the JOURNAL most interesting.

The reform proposed would not only extend the horizon of our thoughts when matters of imperial interest are under consideration, but it would also tend to prevent the misunderstandings so frequently arising in disputed questions like those arising over the Natal affair and the Alaska Boundary.

The "supercilious Englishman" and the "bumptious Colonial" will cease to exist when the feeling of imperial brotherhood has been strengthened in the way sketched in Mr. Crofton's too brief article "Short-sighted Economy".

A bank official with marked literary ability who knows whereof he writes cannot fail to interest his fellow workers, and readers of the JOURNAL will have cause for regret if means be not found to induce Mr. Gordon Tait to make his contribution to this number of the JOURNAL on "The Branches: From the Vantage-point of Head Office," one of a series of articles on similar subjects.

**A Bank's
Branches.**

Mr. Tait's training has evidently been the means of giving him thorough knowledge of the mechanism of a well-managed Canadian bank. He appreciates the value of close supervision and rigid discipline in the controlling of branches, and he pictures in the most happy and inoffensive way the relationship which should exist between the different offices and officers of a bank.

Such reading matter as that given to us by Mr. Tait is both entertaining to senior officials and instructive to those with fewer years of service. He has probably been one of the fortunate juniors whose "first years of apprenticeship" were spent at a well-ordered branch, and he now tells in a most attractive way how the beginner in a bank, if gifted with average ability and common sense, may be coached and drilled until he developes into "a dependable and valuable officer."

The JOURNAL publishes with pleasure the article written by an observant member of the staff of The Royal Bank of Canada, and at the same time ventures to predict that such pleasant sensible criticism of the relationship found to exist between the "Head Office" of a bank and its branches will be enjoyed by seniors and juniors alike.

HISTORY OF CANADIAN CURRENCY, BANKING AND EXCHANGE.

*Some Individual Banks.**

“Happy is the country whose annals are a blank” is a statement which applies to that type of history, still largely prevalent, which regards the sin and misery of the world as alone worthy of record, and its achievements in the promotion of peace and general welfare as too tame and commonplace to engage the attention of serious historians. Though it is true that the interests of the world have altered considerably of late years, it is also true that a great deal of steady and unostentatious progress can be recorded within a comparatively brief space, whereas records of folly and inordinate ambition, with the tragedies and disasters which not infrequently accompany them, naturally involve striking changes,—and change makes history.

One of the most domestic and unobtrusive, but at the same time one of the most successful and businesslike of our Canadian banks, has been the Bank of Toronto. Since its origin in 1855, to which we have already referred, it has maintained a remarkably strong position. It has passed through several crises fatal to many prominent business houses, and to not a few banks, but though at such times, like other Canadian banks of the first quality, it has had its losses, yet its credit has never been impaired, and its stock has always ranked among the highest on the market. Though its business methods have been characterised from the first by caution, reserve and permanence of

Chief sources:—

Statutes of Canada, 1863-1880.

The Canada Gazette, 1868-1880.

The Globe, Toronto, 1864-1880.

The Montreal Witness, Monthly Financial Review, 1864-1879.

The Canadian Monetary Times and Insurance Chronicle, Toronto, 1867-1879.

The Leader, Toronto, 1864-1875.

commercial relationship, yet it has exercised a marked influence in shaping the policy which is embodied in our present banking system. This was largely due to the confidence which the management of the bank inspired, and the fact that it had definite ideas on banking policy. The general manager, from its beginning, was Mr. George Hague, whose opinions on banking were expressed before several Parliamentary commissions, with that definiteness, yet moderation, which comes of the ability to realise the essential principles which are embodied in a mass of concrete experience. The result was, as we have seen, that the first general Bank Act for the Dominion, passed in 1871, embodied most of the reforms advocated by the representatives of the Bank of Toronto, first in 1859, and again in 1869.

The Bank of Toronto, both in its practice and in its principles has stood for stability and safety and the avoidance of all tendencies to merely speculative business. At times of unusual prosperity it may have appeared to some as not sufficiently enterprising and expansive, but when the corresponding period of contraction set in it had the satisfaction of finding itself in a position of exceptional strength. Nor did it lose either in profits or in the value of its stocks from its conservative policy. During the sixties and seventies the Bank of Toronto ranked next to the Bank of Montreal, and occasionally ahead of it, in the value of stocks, and in times of distress and failure it afforded a standing proof that there were people in Western Canada who could really manage a bank, despite sceptical insinuations to the contrary emanating from Montreal.

Having secured a financial footing before the crisis of 1857, through which it passed with complete safety, and not being involved in the land and railway speculations which overwhelmed some of the older banks of Western Canada, the Bank of Toronto obtained a large part of the best business which was transferred from the Bank of Upper Canada and the Commercial Bank. Thus in 1868 we find that though its capital was only \$800,000, its note circulation was \$680,249, its deposits over \$1,500,000 and its discounts nearly \$2,500,000, these items representing the largest amounts in proportion to paid-up capital of any of the Canadian banks. In 1869 the Board of Directors obtained an amendment to the charter of the bank permitting an increase of the capital stock from \$800,000 to \$2,000,000. A new feature in

this act was that instead of fixing as formerly a definite time for the payment of the whole of the authorized capital, the act provided that after the capital was increased to \$1,000,000, for which three years were allowed, it was to be left to the discretion of the shareholders to determine the calling in of the remaining million in such instalments and at such intervals as suited the convenience of the bank. The existing shareholders were to have the first opportunity to subscribe for the new capital, in proportion to their previous holdings, and any premium received on the stock was to be carried to the reserve fund.

In 1869 the directors of the bank, in imitation of the English joint-stock banks, adopted the method of printing and distributing to the shareholders, in advance of the annual meeting, a statement of the essential features of the annual report, that they might be in a position to intelligently take action on any matters brought before them. This example was soon followed by a number of other banks. Out of the profits of the year ending in June, 1869, the bank added \$75,000 to the reserve fund, which now stood at \$300,000, being $37\frac{1}{2}$ per cent of the capital. Among other admirable features in the annual report of the bank's affairs was a separate statement, under liabilities, for rebate on interest on notes discounted, and also a separate statement, under assets, of notes discounted and overdue. The general returns for the year showed the bank to be in a very prosperous condition, though not perhaps expanding its business so rapidly as some of its newer rivals. Very seldom did a change occur in the directorate of the Bank of Toronto. In 1869 the board consisted of Wm. Gooderham, Wm. Cawthra, Wm. Fraser, A. T. Fulton, Jas. G. Worts, Wm. Cantley, Hon. Asa A. Burnham. Mr. Gooderham was president, and Mr. Worts, vice-president.

At the annual meeting in 1870, it was resolved to increase the capital from \$800,000 to \$1,000,000. The additional stock was readily taken up by the shareholders. The note circulation, however, had so rapidly increased, that while in July, 1870, the capital of the bank was still \$800,000, the note issue was \$1,136,798. This was due to the very large business which the bank conducted upon a relatively small capital. As the circulation still outstripped the capital, and as the new Bank Act required the paid up capital to be equal to the note issue, a special meeting of the

shareholders was held on March 1st, 1871, at which a further increase of capital, to the extent of \$500,000, was resolved upon and allotted as before, to be paid in by the end of the year. At the time of the annual meeting in the following June, \$465,000 of capital had been allotted, and \$400,700 paid in, which brought the capital above the amount of notes in circulation.

The premium on the new stock issued added \$38,486 to the reserve fund of the bank. Nevertheless, the premium at which the new stock had been issued was so moderate, and the advance in bank stocks at this time so great, that the bonus which the shareholders obtained on the new stock amounted to about sixty per cent on their investment. The stock of the bank at that time stood at from 180 to 195, Bank of Montreal being 250 to 255, and the third on the list, the Canadian of Bank of Commerce, at 144 to 146.

The profits of the bank for the year ending 1871 were very large, the prosperity of the country being at flood tide. In addition to the premium on the sale of stock, \$146,514 was added to the reserve fund, bringing it up to \$560,000, there being in addition a contingent fund of \$40,000.

In referring to the new general Bank Act, under which their charter along with others had been renewed, the directors congratulated the shareholders that, as finally passed, the Act embodied the views and principles for which they had long contended. The directors obtained power to issue the remaining \$500,000 of capital stock, but did not avail themselves of it for a few years. The management of the bank attached so much importance to a large reserve fund that it was declared by the vice-president as the intention of the directors not to increase the dividend beyond eight per cent until the reserve fund equaled at least fifty per cent of the paid-up capital. The soundness of this policy was to be abundantly demonstrated during the subsequent period of depression, when the credit of so many Canadian banks was seriously impaired through the conjunction in rough weather of too much sail and too little ballast. This principle was also afterwards embodied in the general Bank Act. In 1871 a new code of by-laws was drafted by the board of directors and submitted for the approval of the shareholders. As usual, the bank presented an exceptionally full and detailed account of its business.

Two years later, in 1873, we find that the Bank has achieved its ideal as to a reserve fund. Its subscribed and paid-up capital was now \$1,500,000, and it had accumulated a reserve fund of \$785,000, being fifty-two per cent of the capital, the largest percentage of any bank in the Dominion. Though the tide of prosperity was already on the turn, the business of the bank was still so profitable that it was able to add \$75,000 to the reserve fund, and pay two half-yearly dividends of six per cent each, a rate equalled only by the Bank of Montreal. These facts were reflected in the price of the bank's stock, which now stood at the top of the market, being quoted on the Toronto and Montreal exchanges at from 185 to 194, while the Bank of Montreal was 177½ to 178, the Bank of Commerce being next at 118½ to 119¼.

On this occasion, as on several others during the period of prosperity which brought so many new banks into existence, the management took occasion to deprecate the excessive competition which had been introduced into the banking business in Canada, and which was being taken advantage of by speculative dealers to enter upon questionable ventures which were sure in the end to react upon the prosperity of the country and the stability of the banks. The management of the Bank of Toronto referred to the fact that they had steadily passed by "opportunities of earning high rates of interest on a certain class of transactions," and adhered strictly to meeting the legitimate requirements of customers. In facing the future they felt that special caution would be required to maintain business in a sound condition. How literally this analysis and forecast of banking and business conditions was to be fulfilled, the history of the next six years abundantly proved.

One interesting feature in the practice of the Bank of Toronto was the fact that it adopted the principle of admitting its staff of employees to share in the special prosperity of the institution. Thus for some years it had been the custom to grant a bonus of ten per cent on all its salaries.

The only change in the directorate since 1868 was made this year, when, owing to the death of the Hon. Asa A. Burnham, Mr. Geo. Gooderham was elected to fill his place on the board.

Notwithstanding the increasing pinch of harder times

during the following year, the business of the bank, being associated with the most stable interests of the country, namely, its natural products, enabled it to maintain its prosperous returns. In addition to paying its half-yearly dividends of six per cent it was enabled to add upwards of \$100,000 to the reserve fund. At the urgent solicitation of the shareholders the directors recommended that the capital of the bank should be increased by the issue of the remaining \$500,000 of the authorised capital. The large reserve fund, as they pointed out, would justify such a course. The new stock was, as usual, to be issued to the shareholders, pro rata, at the very moderate premium of five per cent and to be paid in, one-half on December 1st, 1874, and the other on March 1st, 1875.

By 1876 the depression was already severe and had greatly affected the lumber trade of the country, which was one of the lines in which the Bank of Toronto was largely interested. The agricultural interest, however, the other great sphere of the bank's operations, continued in a fairly prosperous condition, but the mercantile interests were in a very demoralised state, and failures were unusually numerous. As a result the bank had inevitably suffered, even though not so severely as many others. Having provided for bad debts it was unable to add anything to the reserve fund.

It was announced at the annual meeting in 1876 that Mr. Hague, who had been cashier or general manager of the bank from the beginning, was about to retire. The first change in the directorate within three years also took place when Mr. James Appelbe took the place of Mr. Wm. Cantley.

During the next three years the wintry gales of adversity blew steadily over the continent. Even the strongest banks steered warily with reefed sails, while round them on every hand business and financial craft of every description, including several of the weaker vessels among the banks, were being swamped, or floundered about in a crippled and water-logged condition, signalling for assistance, which it was seldom practicable to render. The severest effects of the depression, so far as the banks were concerned, were felt in the year ending June, 1879. On the one hand, business failures were very numerous, while, on the other, sound business was cut down to a minimum: hence while the income of the banks was diminished their losses were augmented. In the case of the Bank of Toronto, we find that owing to its losses through bad debts it had found it necessary

to appropriate from the reserve fund \$500,000, half of which was devoted to meeting bad and doubtful debts, while the remaining \$250,000 was placed at the credit of the contingent fund to meet possible future losses. Thanks to the wisdom of its policy in more prosperous years, the bank still had a reserve fund of \$500,000; its capital was unimpaired and its general business and credit in a perfectly sound condition. The annual dividend had been reduced from twelve to seven per cent. That its sound policy had enabled it to come safely through the prolonged depression, now almost at an end, was evidenced from the fact that it substantially held its relative position on the stock market. The following was the order in which the chief bank stocks stood in 1879, Bank of Montreal, 135 to 136: Dominion Bank 109 to 111: Bank of Toronto, 108½: Bank of Commerce, 106½ to 107: all the other banks were somewhere below par. The Dominion Bank, which here takes second place, was a newcomer also modelled on the best lines.

The directorate of the Bank of Toronto had changed slightly in the past three years, the board now consisting of Wm. Gooderham, president, James G. Worts, vice-president, Wm. Cawthra, A. T. Fulton, Geo. Gooderham, Henry Cawthra, and Henry Covert. Mr. D. Coulson was the new general manager. With the returning tide of prosperity the Bank of Toronto, owing to its excellent condition, was able to respond to all the needs of its customers, and hence easily maintained itself in its accustomed position in the front rank of Canadian banks.

A very different history, yet none the less instructive, is that presented by the Royal Canadian Bank and its associations. Over the birth of this ill-fated institution assuredly no benign star could have shone. Its picturesque misfortunes filled a large place in the public interest during the sixties and seventies.

The petitions which were presented by the parties promoting this new bank prayed for a charter under the name of the British Bank. But as this was certain to be confounded with the Bank of British North America, the name was changed, care being taken to preserve the imperial flavour of the institution. Thus a bill was brought down from the Legislative Council, during the session of 1864, to incorporate the Royal Canadian Bank, and was finally passed as 27-28 Vic. Cap. 84. Chief among the charter members and provisional directors of

the bank were John Bell, Q. C., Geo. T. Denison, James Metcalfe, William Barber, J. P. Wheeler, R. A. Harrison, S. M. Jarvis, M. R. Vankoughnet, T. Woodside, Wm. McKee, and Robert Walker. The capital of the bank was placed at \$2,000,000, but with authority to reduce it to a minimum of \$1,000,000, should the additional capital not be obtained within five years. The charter was of the usual description of the period.

Among the innovations which this institution introduced into Canadian banking, was its method of canvassing for capital; for the bank was nothing if not enterprising. Stock was solicited and subscribed for in many different localities, accompanied by the promise that a branch or agency would be opened at each of these places. Should, however, an agency not be opened at any particular place, the subscriptions obtained there would be considered as cancelled. The directors justified this policy on the ground that it would secure the bank in advance an interested body of supporters in connection with each branch. It appeared also from subsequent developments, that some, at least, of these local stock-holders virtually determined the appointment of agents in their respective towns. For a time the system seemed to be remarkably successful, for in several towns at least a very flourishing business was rapidly built up where other banks had found it difficult to find profitable trade. For a time these evidences of successful enterprise occasioned among the promoters of the bank, much mutual congratulation, eventually, however, they culminated in no little tribulation. Having by its newer methods secured a wide-spread hold upon the country, the first meeting for the regular election of directors was held in Toronto, on July 3rd, 1865, at the head office of the bank. The following gentlemen were elected to the first board of directors; Wm. Barber, John Bell, James Metcalfe, A. M. Smith, R. A. Harrison, Ths. Grimshawe, and Alex. Manning. Mr. John Bell retired within a couple of weeks, Donald McDonald succeeding him on the board. Mr. A. M. Smith, M.P.P. for the city of Toronto, was elected president, and Mr. James Metcalfe vice-president, while Mr. Thomas Woodside was appointed cashier or general manager, Mr. John Michie being assistant manager. On Aug. 3rd, the bank was declared open for business, and on the 10th its notes were first put in circulation.

The bank began business with a subscribed capital of

\$497,262, and a paid-up capital of \$105,126. At the close of its first year the subscribed capital had increased to \$1,295,300, and the paid-up capital to \$437,114. Owing to the terms on which the capital was subscribed it had been necessary to open fifteen branches or agencies within the first year, including one in Montreal. As the management declared in its first report, this was rather a unique showing among Canadian banks, and was taken as a proof that the bank had the confidence of the public.

The first annual report certainly presented a roseate and harmonious front; nevertheless, the baleful influence of the bank's evil star early began to manifest itself. Appropriately enough, in view of its later misfortunes, it was first wounded in the house of its friends. As its imperial representative in England the management had selected the Bank of London, as apparently the next best institution to the Bank of England. But before the year was out that institution had closed its doors, incidentally tying up for a time an important section of the funds of the new Canadian bank, against which it had begun to draw exchanges.

One of the new ideas of the Royal Canadian Bank was the value of notoriety as a means of impressing the public with the importance of the institution. In this line the management succeeded far beyond its expectations, yet the results were anything but happy. Apart from its methods of securing stock, and some minor novelties, its connection with the Bank of London failure was its first great advertisement, and though in the end the bank suffered no direct loss through its London agent, yet the episode left a reminiscent feeling of uncertainty with reference to the credit of the new bank. Further, the Bank of Montreal and the Bank of British North America, the inveterate enemies of enterprising innovations on the part of new and ambitious banks, immediately set their seal of disapproval on the methods of the Royal Canadian by refusing for a time to accept its notes. Moreover, the management of the bank soon began to discover that the advertising value of living in the eye and the mouth of the public had its drawbacks, for rumours were constantly getting about as to the nature of the business conducted at some of its branches. Indeed, the new method of developing these was not long in bringing the bank more fame than glory, because more business than profit. When, therefore, in 1866, the Bank of Upper Canada collapsed,

there were a number who sagely shook their heads and encouraged the inference that either the Gore Bank or the Royal Canadian would be the next. However, during that year new branches were opened at St. Catharines, Goderich, Seaforth, Windsor and Paris, but the branch at Windsor not meeting with encouragement closed again.

By the time of the second annual meeting, in July 1867, the bank had 1,879 shareholders, a paid-up capital of \$806,626, a note circulation of \$916,658, deposits of \$994,608 and discounts of \$1,944,595. It had also a reserve fund of \$40,000. The board of directors remained the same, except that Mr. James Fleming now replaced Thomas Grimshawe. So far as the annual report of 1867 was concerned everything was in the most perfect condition and the directors and officers of the institution were lost in admiration of each other's financial ability and devotion to the interests of the bank, nor did the managers of the branches escape the general eulogy. The public, however, seems to have remained unconvinced by these demonstrations of soundness and harmony; for when the Commercial Bank suspended, in the latter part of October, 1867, there immediately followed a run upon the Royal Canadian and the Gore Bank. As there was a panicky feeling throughout the financial atmosphere and the general situation was more or less critical for all the Western banks, the others came to the rescue of these two institutions. Specie was brought up from New York, the aid of the two Governments at Ottawa and Toronto, recent products of Confederation, were successfully invoked to give credit to their notes, and they were tided over the critical period.

Shortly after this, through political influence, the Royal Canadian Bank secured the favour of the new Provincial Government of Ontario, then under the leadership of Mr. John Sanfield Macdonald, and was accepted along with the Bank of Montreal as the recognised banking institution of the Provincial Government. Having weathered the recent financial storm and secured the support of the Government, the bank seemed to take a new lease of life, and finished its financial year in July, 1868, with a paid-up capital of \$1,071,260, a note circulation of \$1,095,452, deposits of \$1,398,049, notes discounted to \$2,787,705, and a reserve fund of \$108,266. Out of the numerous applications for agencies only three had been

established, at Chatham, Fergus and Galt, making twenty-three in all.

Nevertheless, beneath the prosperous surface of the annual report there lay a rapidly accumulating mass of bad management, bad debts, and bad blood, which was soon to pass from the board-room to the street, with disastrous results for the credit of the bank. At the annual meeting there had been quite a spirited contest between different factions for control of the board of directors and there were several candidates for the position of president. There resulted, however, little change in the board, the following being elected: Hon. D. McDonald (Senator), Wm. Barber, M.P.P., James Metcalfe, M.P., R. A. Harrison, M.P., Alex. Manning, and James Crombie, and A. M. Smith. The presidency lay between Mr. Metcalfe and Senator McDonald; the former was successful, the latter being elected vice-president. The result of the election only emphasised the lack of harmony on the board, nor was there wanting, as it turned out, ample material for effective attack upon the past and present management of the bank. Senator McDonald became the most aggressive critic of his opponents, chief of whom was the late president, Mr. A. M. Smith, still on the board of directors. The Senator finally issued a private and confidential circular addressed to the shareholders of the bank, and dated April 13th, 1869. In this he pointed out that certain transactions which had lately come to light and others which were as yet only the basis of more or less disturbing rumours, had greatly impaired the credit of the bank, and that something must be done to improve the management of the institution and restore public confidence.

A certain private banker and broker named W. R. Brown had built up quite a business in Toronto upon the increasing attractions of stock speculation. Shortly after the opening of the Royal Canadian Bank, Brown had obtained, through the president Mr. A. M. Smith, an extensive credit at the bank, which he afterwards sought to enlarge. Later he formed a partnership with Mr. Chewett, and the firm built up so flourishing a business in stock-broking that they were smitten with the contagion of high finance, and thereafter made haste to be rich by speculating on the New York gold market. They succeeded in enlarging their credit at the Royal Canadian Bank, and with the aid of the funds of various clients boldly entered in, with

the usual result. In the course of the subsequent proceedings, which followed the escape of Brown and the arrest of Chewett, the extent to which the Royal Canadian Bank was involved in their losses became public, and revived other latent rumours, much to the uneasiness of the public mind and the injury of the bank's credit.

Proceeding from these facts as a basis, Senator McDonald passed on to reveal other phases of the bank's affairs; he took up the Cobourg agency, where Mr. Wallace, formerly agent of the Bank of Toronto, which had dropped him, had secured the agency through the intervention of local shareholders. Under his management there was a very rapid expansion of business at the Cobourg branch. Although the nature of this business was discovered in 1866, yet Mr. Wallace was retained in the hope, apparently, of recovering part of the advances made. The hope proved vain, for instead of recovering past losses he only involved the bank in new ones until he was dismissed in 1868. At Seaforth the agency was in charge of Mr. Russell, who was supported by the president of the bank, Mr. A. M. Smith. When, in October, 1868, the new president, Mr. Metcalfe, paid a visit to the Seaforth branch Mr. Russell absconded, and his books were found to be in a very criminal condition, involving heavy losses for the bank. The Kingston agency was also found to exhibit serious irregularities, involving extensive losses for the bank and certain criminal suits. Such were some of the more serious features exposed in Senator McDonald's confidential circular to the shareholders, and the responsibility for which he endeavoured to transfer wholly to the shoulders of his particular enemies on the board.

Such a communication, coming from the vice-president of the bank, naturally caused considerable excitement among the shareholders, and did not improve the credit of the institution. Of course, a private and confidential communication, in the shape of a printed circular franked from the Senate-chamber at Ottawa to over a thousand persons in all parts of the country, was scarcely a light concealed under a bushel. A few weeks later, the other directors of the bank issued a private and confidential circular of their own, in which they endeavoured to discredit Senator McDonald's motives, but without denying the substantial truth of the losses which he claimed the bank had sustained. They simply endeavored to prove that McDonald

was not only as responsible as the others for any losses which had occurred, but that he had endeavoured to obtain improper favours from the bank for himself and his associates. About the same time the late president Mr. A. M. Smith added another circular to the private and confidential literature on the subject of the bank. Without making matters any better for the bank he sought to make them much worse for Senator McDonald. These documents though already extensively known, were first published in the *Globe* on May 4th, 1869, and added greatly to the public distrust of the bank. Thereafter the controversy between the officials of the bank went merrily forward in the newspapers, while the public in increasing numbers hastened to withdraw their deposits from the custody of such men. During the month of May the drain upon the bank increased, until, on the morning of the 21st, the bank was compelled to close its doors. Even then the suspension created great excitement among those who had not realised that its condition was so desperate.

The *Globe*, in an editorial analysis of the condition of the bank, attributed its troubles in the first place to the incapacity of its officers and directors, and in the second place to the hostility developed between them. From a survey of its condition on the first of March, it was pointed out that the institution could not be bankrupt, but was simply compelled to suspend for lack of available funds to meet in cash the heavy and continuous drain upon it. In common with most Western papers, the *Globe* professed to be able to trace in the collapse of the Royal Canadian the Machiavelian arts of the Bank of Montreal, with the obvious intention of assisting the bank policy of Messrs. Rose and King, then before Parliament. After the withdrawal of Mr. Rose's Bank Bill, however, the Western papers, including the *Globe*, were more inclined to acknowledge that the suspension of the Royal Canadian was almost entirely due to its own mismanagement and internal dissensions.

As indicating the drain on the business and resources of the bank, due to loss of confidence on the part of the public, we have the following contrast in its affairs between the opening of the year and the date of its suspension.

	Jan. 1st.	May 21st.
Circulation..	\$1,569,611	\$902,198
Deposits..	1,684,388	828,868
Specie..	1,163,343	126,033

Meanwhile, the public and private exchange of compliments between the different factions in the management of the bank continued unabated. Various facts and documents were cited by the different parties, which, while chiefly damaging to certain private reputations, afforded also cumulative evidence of gross carelessness and incompetence, passing at times into corruption, on the part of the management. It was quite true, however, that notwithstanding the severe losses of the bank the estate was really in a solvent condition, and hence steps were taken to resume business. According to the terms of its charter, the bank was permitted to resume specie payment within sixty days without forfeiting it. As a further precaution, however, almost immediately after its suspension the management applied to Parliament for an Act, similar to that granted to the Commercial Bank after its suspension, extending the time for resumption to ninety days, also authorising it to amalgamate with any other bank or go into liquidation if necessary. The bill to this effect being carried to the standing committee on banking and currency, the committee took evidence from the chief officers of the institution as to the condition of the bank. In his evidence the president, Mr. Metcalfe, admitted that the losses would probably amount to \$300,000. The heavy losses at Cobourg, Seaforth, and Kingston were attributed to the culpable misconduct of the agents of the bank at those places. A committee of three persons, namely John Crawford, M. P., S. B. Harman, Mayor of Toronto, and Wm. McGivern of Hamilton, (for whom Mr. Thompson was afterwards substituted) were appointed to examine the affairs of the bank at the head office in Toronto. On the 25th June a meeting was held in Toronto at which were present delegates appointed from the rural agencies and the shareholders in Toronto, for the purpose of taking into consideration the report of this committee on the affairs of the bank. From this report it was found that the chief losses had occurred at the following centres:

Cobourg..	\$87,084
Seaforth..	58,624
Paris..	14,322
Toronto..	70,087
Kingston..	32,331
Woodstock..	7,000

After a very animated discussion and much unparliamentary language, the meeting decided, by a vote of 31 to 23, to change the board of directors at the annual meeting, and a new board was nominated, though several of those proposed afterwards withdrew.

On July 5th, 1869, the annual meeting was held. The president, Mr. James Metcalfe, M. P., opened with an appeal for the suppression of the bitterness and disorder which had characterised the former meeting,—an appeal which was respected until the formal business was over. It appeared from the report submitted that, before suspending, the bank had sought the assistance of other banks through the re-discounting of its paper, but this in the end being refused there was no alternative but to suspend. After the presentation of a statement as to the amount of bad debts written off, the legislation applied for, and the progress of liquidation, the discussion of the reports began, and soon became very warm. In the course of the proceedings the chief factions in the management made a pretty thorough confession of each other's shortcomings, to the enlightenment and indignation of the shareholders. After a prolonged and stormy meeting the vote for the new board of directors was concluded at midnight, with the following result, including the subsequent votes for president and vice-president. Hon. John Crawford, Toronto, president: Wm. Thompson, Toronto, vice-president: J. McGee, King: J. Crombie, Galt: Wm. Barber, Georgetown: Wm. McGivern, Hamilton: J. H. Dumble, Cobourg. In this list we see reflected the strength of the element which advocated a board more representative of the shareholders living outside of Toronto.

Meantime, the bank had been making fair progress in the reduction of its liabilities. Parties who had payments to make to the bank readily bought up its notes, with the result that they were maintained very nearly at par. The new board of

directors resolved to secure an independent investigation of the affairs of the bank, and applied to the Bank of Montreal to permit their manager in Toronto, Mr. Yarker, to undertake the work. This selection excited considerable criticism, being regarded as somewhat of a surrender to the arch-enemy. The general impression was that Mr. King wished to buy up the Royal Canadian and merge it in the Bank of Montreal; his own statement that he desired to see the bank re-open evidently carried no weight. Mr. Yarker made his report, which was reasonably favourable and gave encouragement to the shareholders to maintain the independent condition of the institution. About half of the twenty-three agencies were closed within the year. The bank resumed regular business on September 13th, 1869, under the direction of a new general manager, Mr. Thomas McCracken. Once more the bank appeared to rapidly acquire public confidence. This is the more easily understood when it is remembered that the country at this time was in an exceedingly optimistic mood, bank stock being the favourite form of speculative investment. Every year new banks were being launched, and old ones expanded, not so much because of the country's need for them, as because their shares were easily disposed of to speculators for the rise. By previous arrangement the notes of the Royal Canadian were accepted by the other banks, and there was little inclination to return them for redemption, while the supporters of the bank favoured it with deposits.

Until the next annual meeting, in 1870, the capital of the bank remained at its nominal amount before suspension, but afterwards the directors, with the approval of the shareholders, applied for a renewal of the charter under the recent general Bank Act, on the basis of a reduction of twenty per cent of their paid-up capital, being a reduction from fifty to forty dollars as the value of each share. The report of the bank in 1870 showed a satisfactory recovery all round, and the new board of directors was re-elected. As the reduction of the capital stock, after meeting the reported losses, left a surplus of \$40,000 this, added to the net profit on the half year's business, permitted the directors to declare a dividend for the half-year of three per cent, and carry \$52,000 to a new reserve fund. The bank having thus resumed the payment of dividends was regarded as once more on the high-road to success. For some

years the annual reports were of the most flattering character, while peace and harmony reigned within the borders of the management.

Before the annual meeting in 1871 the dividend had been raised to an eight per cent basis, and the reserve fund was increased to \$112,000. To comply with the new conditions of the Bank Act the directors decided to increase the capital stock once more to \$2,000,000. The directors also felt justified in erecting a new bank building of their own. At the annual meeting in 1871 the board was re-elected with the substitution of H. J. McMurrich in the place of J. H. Dumble.

There was no abatement in the prosperity of the country during the following year, 1871-2, and the report of the Royal Canadian Bank at the close of the year fully reflected the general optimism. It maintained its dividend of eight per cent and added \$53,000 to the reserve fund, making it \$165,000, or about nine per cent on the paid-up capital. The remaining stock up to the \$2,000,000 limit had been taken up by the shareholders, and in March 1871, the Provincial Government of Ontario re-opened its account with the bank thus constituting it one of its financial agents. For the following year also the bank continued to show steady improvement. At the annual meeting in June, 1873, \$50,000 was added to the reserve fund, making it \$215,000. During the year a couple of sub-agencies had been established, subsidiary to the branches at Galt and Woodstock, and an agency had been opened at the new town of Prince Arthur's Landing. The paid-up capital was now \$1,937,843, the deposits from the public were over \$1,800,000, the paper under discount \$4,225,566, and the debts overdue were placed at only \$78,191.

This, however, was the last of the happy reports under the new management. The pinch of adversity revealed the fact that the flourishing business re-established so rapidly by the Royal Canadian Bank was of a very unstable and more or less speculative character. The old mistake of carrying bad and doubtful debts among the ordinary deposits was also revealed. During the year 1873-4, Hon. John Crawford, having become Lieutenant-Governor of the Province, resigned his position as president of the bank, and was succeeded by the Hon. Alex. Campbell. The new president explained at the annual meeting in June, 1874, that it had been found necessary

to make a regular investigation of the accounts of the bank owing to the unfortunate accumulation of bad and doubtful debts. As a result of this overhauling it had been found necessary to write off \$188,369 as complete loss, which reduced the reserve fund to \$100,000. It was hoped, however, that this would be the end of their losses for the present, but it might be necessary to reduce the number of branches. Lieut.-Governor Crawford still retained a place on the board of directors, but Col. McGivern and James Crombie were replaced by Hon. Alex. Campbell and D. Galbraith.

It turned out, in the course of the next year, that the hopeful expectations of the president were very far from being justified. The annual report for 1875 revealed a further loss from bad debts of \$133,724, still leaving \$111,439 of overdue paper. To meet these losses the reserve fund was reduced to \$42,000, the contingent fund of \$25,000 was swallowed up, and the remainder was provided by the profits of the year.

The outlook for the future appearing anything but bright, negotiations, with a view to amalgamation, were opened up with the City Bank of Montreal, one of the older Canadian Banks whose early history we have already traced, but which owing to certain misfortunes had also fallen upon more or less evil days. Apparently a good deal of the new capital furnished to the Royal Canadian Bank had been subscribed in Montreal, hence, doubtless, the willingness in that quarter to enter into the new arrangement.

Before dealing with the movement for amalgamation, it is necessary to see what had been the recent course of the City Bank of Montreal. When, in 1863, an act was passed to consolidate the several acts incorporating and relating to the City Bank, the capital stock was fixed at \$1,200,000, in fifteen thousand shares of eighty dollars each, which, in 1869, was changed to twelve thousand shares of one hundred dollars each. In 1868 Mr. Wm. Workman was still president of the bank, which was doing a steady business and pursuing the even tenor of its way as had been its wont for years past. It paid a dividend of eight per cent on its capital: it had a reserve of \$140,840, or $11\frac{1}{2}$ per cent on its capital: its stock stood at 102, being on much the same level, at that time, as that of the British North American and Quebec banks. The directors of the bank were Wm. Workman, Jos. Tiffin, Wm. McDonald, C.

Brown, and John Grant. F. McCulloch was the general manager. No special change took place in the ordinary business of the bank during the two following years. In 1870, the earnings amounted to fourteen per cent on the capital; yet, during that year an unfortunate circumstance came to light.

The City Bank, having no branch at Quebec, had employed one D. McGie to redeem its notes and otherwise act for it. For that purpose he was authorised to make deposits and draw cheques upon La Banque Nationale. McGie was also doing business as an express and insurance agent, and had an assistant named Ahearn, who, obtaining access to some blank cheques signed by McGie, filled them out in favour of one Sanderson, from whom he obtained in exchange cheques accepted by the Bank of Montreal through Mr. Harris, its agent in Quebec. Harris, Sanderson, and Ahearn were engaged in the usual pastime of financial experts—speculation in gold—and these cheques were employed to tide over temporary embarrassments. In the end, of course, the money was lost, and the Bank of Montreal, getting wind of the affair first, cashed the cheques of the City Bank, but declined to acknowledge their agent's acceptances for Sanderson, which were given in exchange for them. The matter was carried to the courts, creating a rather celebrated case, and involving the three banks. In the Superior Court the City Bank won its case, but this decision was reversed in the Court of Review, November, 1872; hence, ultimately, the whole loss, including costs, fell upon the City Bank, and amounted to over \$140,000. This reduced the Bank's reserve fund to about \$30,000. It proved a severe blow to the Bank, the full effect of which was felt just as the period of depression was beginning.

Apparently it was thought that if the bank could secure so great a political and financial light as Sir Francis Hincks as president of the institution, his name might tend to rehabilitate its credit. This was accomplished; Sir Francis became president of the City Bank, and a new general manager was secured in the person of Mr. J. B. Renny. Then came the proposal of amalgamation with the Royal Canadian Bank, whose new president had political affinities with Sir Francis. A special general meeting of the shareholders of the City Bank was held, on September 16th, 1875, to deal with the proposed amalgamation. This was approved of almost unanimously. It was agreed to accept the stock of the Royal Canadian on a par with their own, and it was also agreed that the shareholders of the City

Bank should subscribe for an additional \$800,000 of capital, so as to bring their capital to a par with that of the Royal Canadian Bank, and to give the united bank a joint capital of four millions. The shareholders of the Royal Canadian Bank, having already approved of the principle, a formal agreement to amalgamate was drawn up and signed on September 17th and 18th. The necessary act to confirm this agreement, 'itself embodied in the act, was passed April 12th, 1876, (39 Vic. C. 44.) The new bank was to be known as the Consolidated Bank of Canada, and amalgamation was to take effect on May 10th, 1876. The number of directors was fixed at ten. The chief place of business was Montreal, but the head office for Ontario was to remain in Toronto, where there was to be a local board composed of a chairman, who should be a director of the bank, and three local directors, to be appointed by the general board of directors. This local board was to manage all agencies north and west of Toronto. The terms of the general Bank Act of 1871 were, as usual, made applicable to the Consolidated Bank.

The first annual meeting of the Consolidated Bank took place at the head office in Montreal, on June 7th, 1876, the president, Sir Francis Hincks in the chair. The paid-up capital stock of the bank was reported as \$3,477,224, and the reserve fund \$232,000. The profits of the bank were limited by the general depression, but were sufficient for the dividends and to meet losses without infringing on the reserve. The first regular board of directors consisted of Hon. Sir Francis Hincks, Hon. Alex. Campbell, John Grant, R. Moat, H. McKay, W. W. Ogilvie, J. A. Rankin, R. J. Reekie, R. H. Stephens and H. J. Tiffin. Mr. J. B. Renny, general manager of the City Bank was retained in the same capacity for the new bank. In 1877 the bank still made but a poor showing. The dividend for the year was reduced to seven per cent. It was explained, however, that the expenses following amalgamation had now been met, and a better showing might be expected for the following year. Considering the severity of the depression, the showing made in the report for the following year was fairly good. The dividend for the last half-year had been reduced from three and a half to three per cent, but it was claimed that the losses on bad debts had been met out of the profits of the year, leaving the original reserve intact. During the year advantage had been taken of the provision in the charter to form a local board for Ontario, composed of three directors living in Toronto. The business of the

bank had been considerably expanded during the year. Three new names appear on the board of directors, who had also been members of the last board of the Royal Canadian Bank, namely, D. Galbraith, Wm. Thomson, and John L. Blaikie.

In the course of the next year the character of much of the business which had been contributing to the expansion of the bank and giving it a general air of prosperity began to reveal itself. The anxiety also to avoid encroaching on the abnormally small reserve fund had led to a repetition of the perennial mistake of the Royal Bank,—the carrying of bad debts, among its regular discounts. Many of these bad debts, as it turned out, were legacies from the banks before amalgamation.

The directors, realising that they were at last confronted with a very critical situation, had taken upon themselves to secure from Parliament an Act authorising, subject to the approval of the shareholders, the reduction of the capital of the bank by forty per cent. Authority was also obtained to abolish the special board at Toronto and concentrate the whole management at Montreal, and also to reduce the number of directors to seven. As the result of this action and of the causes which gave rise to it, there was an unusually large attendance of shareholders at the annual meeting in June 1879. The president, speaking for the board, expressed great regret at the unfortunate character of their report. The extensive losses and depreciation now acknowledged, absorbed not only the profits of the year and the whole of the reserve and contingent funds, but left a deficit of \$450,892. To meet this the reduction of forty per cent in the capital stock had been provided for. This would place at the disposal of the bank \$1,394,600, and after meeting the deficit would leave a surplus of \$943,707 as a new reserve fund.

The general statement laid before the shareholders showed a large falling off in all departments of the bank's business. This had been going on since the previous December, when a severe run upon the Belleville branch of the bank had first aroused a general suspicion as to its credit. In his address Sir Francis Hincks admitted that many of the bad debts should have been written off before, and regretted that the banks had gone into amalgamation with so small a reserve fund. There were many questions asked as to details, but little satisfaction was obtained. The severe criticism indulged in by several of the shareholders did not improve the credit of the institution. The Hon. John Crawford, former president of the Royal Canadian

Bank, deprecated severe criticism of the management, but expressed the conviction that the amalgamation had been a mistake, having been entered into too rashly and without adequate provision for the future. He advocated a greater frankness with the shareholders and the necessity for giving them the right to appoint auditors, which, however, under the existing Bank Act could not be demanded. In the end the Acts authorising a reduction of the capital stock, and the abolition of the Toronto board were sanctioned. Messers Blaikie and McKay retired from the board, and A. Saunders and A. Robertson, from whom much was expected (though vainly, as it turned out,) were elected in their stead.

No improvement in the condition of the bank followed the annual meeting, but rather the reverse. Its stock fell to 48, and its credit was sadly impaired. In fact, the affairs of the bank were really in a worse condition than had yet been acknowledged. About the beginning of July the general manager Mr. Renny resigned. He was succeeded by Mr. A. Campbell. It was plain that the bank could not much longer withstand the steady drain upon its resources, and on August 1st., it ultimately suspended. This caused no special excitement in Montreal or Toronto, but at several minor places there was a temporary panic, accompanied by a tendency to sacrifice the notes of the bank. At the time of the suspension the public deposits had been reduced to about \$700,000, and the circulation to \$650,000. A list of the stockholders,—there being about one thousand, seven hundred in all,—shows that the stock was held in all parts of the Dominion, but chiefly in Ontario and Montreal. The president, Sir Francis Hincks, held only fifty shares. After suspension the stock fell to fifteen and later went still lower.

Immediately following the suspension of the bank the intention was expressed to initiate criminal proceedings against the management for the alleged issue of false returns. On the same grounds civil actions were also entered to recover from the directors the value of stock paid in.

The collapse of the Consolidated Bank had the natural effect, in an atmosphere of depression and bankruptcy, of precipitating a run upon several other banks, some of which succumbed never to rise again, others to resume and struggle on for a while, and still others to be restored to a permanent place in the public confidence.

A special general meeting of the shareholders of the Consolidated Bank was called for Sept. 18th., to receive a statement of the bank's affairs and to decide on future action. The meeting proved a very stormy one. A strong feeling of indignation against the management had grown up since the suspension, the fact having become public that the official returns of the bank to the Government had not been correct, and that there were other irregularities in the conduct of its business. The president, Sir Francis Hincks, as a seasoned parliamentarian and railway director, maintained his temper amidst all the onslaughts directed against himself and the others of the board. He admitted that they had made many mistakes, though mainly of omission rather than of commission. They had placed too much confidence in their general manager. In the case of the old City Bank he knew that no inspection of its affairs ever took place, nor was any ever proposed. This was no doubt wrong, as they now recognised, but such was the custom. In fact, the general evidence went to show that Sir Francis Hincks had received \$4,000 a year, mainly to act as a figurehead for the bank, and had been very slightly acquainted with the details of its affairs. Certain members of the board of directors had recommended special individuals or firms to the general manager, who evidently enjoyed great latitude and had exceeded his privileges. The discovery of such a condition of affairs only increased the indignation of many shareholders. Col. Turnbull of Quebec evidently had the sympathy of a large section of the meeting when he said that he had come there, representing the Quebec shareholders, to join with other shareholders in action to secure punishment of the directors. As regards the future policy the general opinion favoured the proposal to sell out.

At an adjourned meeting, the following day, a number of specific irregularities were brought to light. In view of future proceedings, the most important of these was that re-discounts to the extent of \$622,000 had been effected with other banks but no report of these transactions had been made in the official returns of the bank to the Government. After the discussion of many details, it was resolved that T. W. Ritchie, Q. C., Col. Turnbull, and Alderman Hagar should form a committee to send a petition to the Dominion Government for an immediate investigation as to the correctness of the official returns furnished by the directors, and for the arrest and punishment of those implicated in making any false statements. The new directors

elected at this meeting were instructed to close up the bank's affairs by voluntary liquidation, or by the disposal of the assets to any other bank.

Action against the directors of the bank was not long delayed. On October 7th, the G. Jury brought in a true bill against the directors and a separate bill against Sir Francis Hincks and the general manager. As the latter was out of the country Sir Francis Hincks was individually brought to trial on Oct. 16th 1879. The case excited wide-spread interest, as the most important of the kind which had yet occurred in Canada. Mr. T. W. Ritchie, Q. C., conducted the case for the prosecution. Both he and the judge paid the highest tribute to the character of Sir Francis Hincks, alike as a private citizen and as a public man of great ability and experience. The question was, however, were the official returns to the Government, correct statements of the affairs of the bank according to the law,—a law which Sir Francis Hincks himself, when lately Minister of Finance, had been chiefly instrumental in placing upon the statute book. There was practically no dispute as to the facts. Advances from other banks had been omitted from the reports, to the extent of \$622,000. The plea made on behalf of Sir Francis was that he had trusted to the general manager and the minor officials of the bank to prepare the Government returns, and that he had no personal knowledge of the details, though as president he had signed the reports. When the evidence was all in the judge, in presenting the case to the jury, temperately but strongly charged adversely to the plea of the defence. Hence, contrary to all expectation when the trial began, the jury returned a unanimous verdict of guilty. This verdict was received with astonishment and alarm throughout banking circles, and especially by the remaining directors of the Consolidated Bank. The minimum penalty appointed for the offence was two years' imprisonment. A motion was made and granted for arrest of judgment, and in the end judgment was never delivered. The public were amply satisfied with the fact that a striking warning had been given to the presidents and directors of corporations who give their names rather than their services to the institutions whose affairs they are supposed to closely supervise.

After various technical proceedings in the courts, a Bill was introduced into Parliament on March 9th, 1880, to authorise and provide for the winding up of the Consolidated Bank of Canada. This was duly passed, and in accordance with its provisions the

affairs of the bank were ultimately disposed of, and the institution passed into history. Thus was brought to a close the ill-fated career of the Royal Canadian Bank, while at the same time with the City Bank there disappeared one of the oldest landmarks in the field of Canadian banking.

ADAM SHORTT.

AS OUR NEIGHBOURS SEE US.

The limitation of bank notes to the paid-in capital of the issuing banks is an arbitrary restriction of doubtful utility. Perhaps, in this country, it is an inheritance of the period when banks were organized with little or no actual capital, and chiefly for the purpose of issuing notes. This restriction not infrequently renders it impossible for an issuing bank to grant credits which otherwise might be easily extended. No doubt the Canadian banks have felt this an irksome restraint preventing them from making advantageous use of their credit in seasons of active demand. On the other hand, in times of stagnation, the bank that has increased its capital for the purpose of enlarging note issues may find itself with more capital at its command than is really needed. Primarily, a credit circulation, such as exists in Canada, and that plays so admirable a part in carrying on the trade of the country, should be issued only by banks of large capital. But this requirement fulfilled, there is no good reason why note issues should not be permitted beyond the capital. The rise and fall of the circulation should be governed by the rise and fall of the demand for credit, and when it is governed by anything else, particularly by something so fixed in character as banking capital usually is, it becomes, in that respect, inflexible.

The addition being made to the capital of the banks of Canada is an evidence of the high degree of prosperity the country is now experiencing.—The Bankers' Magazine.

SHORT-SIGHTED ECONOMY.

ANDREW FLETCHER, of Saltoun, "knew a very wise man who believed that, if a man were permitted to make all the ballads, he need not care who should make the laws of a nation." In our time newspapers and magazines have supplanted ballads in their popular influence; and it does not now require "a very wise man" to see that if one nation can supply another with the bulk of its reading matter, the first nation is likely to mould the opinions and gain the affection of the second.

Our proximity to the United States and our constant intercourse have exercised (and must continue to exercise a strong influence on our habits and ideals. But this unavoidable force has been aided by one that might have been and might still be modified. Though the "Weekly Times" the "Overseas Mail," and some other English periodicals have subscribers all over Canada, yet an overwhelming majority of the periodicals and daily papers that enter our borders are American. Even the English magazines that we read, we read almost exclusively in their Americanized edition, with alterations to suit American tastes and prejudices. This unstemmed flood of United States literature has not only affected the spelling, idioms and style of Canadians, but it has co-operated powerfully with our geographical position towards a uniformity of sentiments and ideals. And so strong are these combined forces that they might possibly have effected the political union of the two countries, were it not for certain American politicians who fancied we were people who could be whipped and bullied into annexation, according to the nice and flattering suggestion of Mr. Farrer.

In the Toronto "Week" of July 26, 1889, in one of the most thoughtful articles ever written on "The Future of Canada," Mr. James W. Bell pointed out that the prevalence of American publications in Canada was one of the agencies working for disunion between the Mother-country and the Dominion:—

"In school, the Canadian's text-books are as often re-edited on United States as on English models***His teachers get much of their inspiration, most of their pedagogic literature, and some-

times part of their training across the line**His newspapers show the same influence, for, though printed in Canada, their exchanges are mainly American; the telegraphic despatches are the same for the whole continent, and under the guidance of clippings, editorials and reviews, he comes to look on even English questions largely through United States spectacles."

Notwithstanding these considerations, the British postal authorities have ignored repeated suggestions to reduce the rates on British journals and periodicals, arguing only that they would lose some thousands of pounds each year by doing so. Yet surely, if the unification of the Empire be, as we are fain to believe, of supreme importance to Britons and to mankind, a reform so conducive to a conformity of sentiments and interests would be cheaply secured by the loss of a surplus of many thousands of pounds. The increased correspondence between Britons in distant parts of the Empire due to the reduction of the postage on letters has done something towards strengthening the feeling of imperial brotherhood, but a large decrease in the postal rates for newspapers and periodicals would do still more.

With an adequate reduction, many individuals and most public reading rooms in the Colonies would take British newspapers and periodicals. There would be more exchanges between British and Colonial journals, and the tone of Canadian journalism would probably be raised. The horizon of our people would be widened; fewer of them would be hoodwinked by the politicians and demagogues who so frequently control our local papers; more of them would be able to see and to weigh the British contentions in disputed questions like the Alaska Boundary arbitration. No other minor reform has been proposed so likely to lessen provincialism and to make us think imperially. In fact no reform, major or minor, can do more to widen and imperialize our thoughts, until we have representation in a Parliament of the Empire, when we shall be forced to consider imperial and foreign questions while our candidates for that parliament are running their elections and when our representatives are displaying their eloquence in London.

F. BLAKE CROFTON.

THE BRANCHES: FROM THE VANTAGE-POINT OF HEAD OFFICE.

*".....Not only to enforce by command, but to encourage
"by example, the energetic discharge of duty....."(Bengal
Army Regulations.)*

THE object of this brief paper is to endeavour to review and in a measure to criticize, the ordinary everyday relations which, in a bank with branches, exist between that centre of executive control known as "Head Office" and those branches individually.

To begin with a simile.

In the British Navy there are ships which are always known throughout the service as "happy ships." These are ships of various classes commanded by popular and "lucky" captains; ships aboard which everything goes heartily from the first to the last day of commission; ships which figure high in gunnery averages; whose whaleboats and cutters distinguish themselves in the Fleet races; against which there is no black mark in memory of some regrettable error of judgment, or of some deplorable disaster by accident or misadventure.

So, in like manner, may we say it is in the case of a large bank. "Head Office," even with intentions of the most scrupulous impartiality, cannot help mentally singling out from among its many branches those which (to apply the simile) might be termed "happy branches,"—singling them out apart from the general average, together with those other branches which, for some reason or reasons, not always their own fault, cannot rightly be placed in that very enviable company.

By a "happy branch" the writer means one under the charge of an able and trusted manager, who, by good guidance, good judgment and tireless effort has succeeded in working up an extensive and desirable business, possibly in the face of the keenest competition; a branch at which the thermometer

of public deposits is a constantly rising one, and at which the barometer of advances seldom falls to "Stormy"; a branch, the condition of whose routine, through a careful and intelligent observance of the rules and regulations of the bank, is reported by the inspector as "excellent"; a branch, the component members of whose staff work well together for the credit of "their" branch, hence, of the bank in general. Returns and statements from a well-ordered branch such as this reach Head Office promptly, show neatness in preparation, and are invariably accurate and *complete*; correspondence and circulars are acknowledged and replied to, where necessary, without delay—in these and in many other like ways does the "happy branch" make glad the heart of Head Office. Fortunate, indeed, is the junior whose first years of apprenticeship are spent at such a branch! It is during those years that, gifted with average talents and a good reserve of common sense, the junior either deteriorates by easy gradations into a careless, untrustworthy clerk, or, steadily checked, coached and drilled, he develops into a dependable and valuable officer.

And now to look at the *extreme* reverse side of this very creditable picture, that is, at the notoriously slack branch. A branch of this character is a veritable thorn in the flesh to Head Office, who, like an anxious mariner, is obliged to keep a constant and watchful weather-eye open in its direction. This branch has a manager, truly, but there is little evidence of management; the accountant, too, in all probability, is lax, and the remainder of the staff—quick to take its cue from the seniors, and in the absence of the needful supervision (*i.e.*, training)—likewise becomes at once careless and neglectful, with the result that everything is done in a limp fashion, of "rather-more-or-less." The profits from the branch always show about the same as, or slightly below, those of the same quarter of the previous year, for little effort is made to seek or secure new business; returns and statements arrive, belated, days after those of other branches, and only too frequently it is necessary to return them for completion; correspondence is neglected, calling forth on the part of Head Office letters of enquiry, letters of reminder, letters of remonstrance, letters of reprimand; finally, an Inspection Report, calm and judicial, reciting at length the many counts upon which the branch

has been tried and found wanting, reveals a state of things that nothing short of a cleaning from top to bottom and the installation of a "new broom" could ever quite put to rights. Happily, however, for all concerned,—for the welfare of the bank, for the good of the staff, for the nerves of the Head Office, and for the pockets of the shareholders—there are few such branches in any bank's service; indeed, it would hardly be possible for a deplorable *régime* such as here described to be other than very short-lived in these wide-awake days of close supervision and of rigid discipline.

But the reader may observe that in his experience he has never known any branch *quite* so exemplary as that of the "happy branch" of this article, neither has he known one *quite* so discreditable as that just referred to—the slack branch. The branches of his experience have been what might be called *average* branches—branches which, for a variety of reasons, had their ups and downs; their good half-years, their fair half-years, their very good half-years, and so on; where, in spite of human good judgment and the observance of the nevertheless, show some derelict advances for which provision would have had to be made by Head Office; branches, the staffs of which were composed of men of widely varying talents, habits, manners, fads, temperaments and the like, and who could not, with justice, be painted with the same brush either for good or evil report; *average* branches, in fact, in which things seldom ran with such uniform smoothness, nor with such eminent excellence as in our first example, nor ever so casually nor so ingloriously as in our second example. We could not, with justice, be painted with the same brush either rather, to the consideration of the branches as a whole; to review briefly their relations with Head Office, and, conversely, the relations of Head Office with them.

The branches of every joint stock bank are as offshoots or saplings of a parent tree, to which every such offshoot or sapling owes its life and existence; they are planted out each in a certain locality to flourish and develop into other trees—occasionally into groups or groves of trees—in the course of time and by unremitted attention on the part of the nursery-men to rival in size and beauty the parent tree itself. Thus the parent bank, or Head Office, spreads its offshoots to all points

of the compass, establishing branches wherever profitable business may promise. The whole of these branches are directly under the control of Head Office; are guided in their actions and policy by definite and distinct instructions received from it; are answerable to it for their stewardship. The branches, in the first place, are held responsible to Head Office; Head Office, in turn, is responsible to the board of directors, and the board of directors is responsible to the shareholders.

Now, to Head Office (that is, to the General Manager and his staff) the shareholders, through, and subject to the approval of, the board of directors, entrust the entire administrative and executive work of the institution in all its multifarious detail. These responsibilities embrace all matters relating to the (1) staff; (2) premises, including safes and vaults; (3) stock allotments and transfers, also dividend payments; (4) note circulation; (5) investments; (6) preparation of returns by the Government; (7) agreements with other banks, bankers and correspondents as to collections, drawing, letters of credit, etc.; (8) opening and closing of branches; (9) inspection of branches and the enforcement of the bank's rules and regulations; (10) examination of branch returns; (11) granting of loan and discount credits; (12) adjustment of accounts current between Head Office and branches and agents, domestic and foreign; (13) private (cipher) telegraphic arrangements; (14) stationery supplies; (15) insurance of various kinds; (16) subscriptions; (17) advertizing; (18) instructions as to all legal proceedings. In order to carry out day by day with effect and due despatch this considerable volume of centralized routine, Head Office, on its part, requires of the branches on their part, strict compliance to instructions, also absolute uniformity of internal procedure throughout the service. This uniformity of internal procedure is attained only by a careful following of the rules and regulations, together with such amendments and additions as events and circumstances from time to time necessitate, and by the carrying out of instructions contained in the Head Office correspondence and circular files. Books of rules and regulations have been compiled by most banks, according to their individual ideas and views, solely with this idea of instituting *uniformity* throughout their respective staffs and branches. These books are occasionally received with (assumed) contempt in some

quarters, usually from men who have no knowledge nor appreciation of the elements or axioms of centralized administration, their claim being that to follow such or such a rule would oftentimes lead to the loss of valuable business to the bank. No code of rules could possibly be compiled to cover every possible circumstance, or combination of circumstances, any more than any code of civil or criminal laws has ever been drawn up, the application of which was not wholly determined by the facts of each particular case. The rules and regulations are expected to be carried out with intelligence and judgment, and Head Office would much prefer to hear a *good* reason for having deviated from a rule, than a *stupid* one for having kept it.

In addition to the entire direction of affairs as enumerated under the eighteen principal divisions named above, Head Office is ceaselessly striving along two other broad lines. These are:—

Firstly, the consideration of means and precautions with a view to the prevention (or, at least, to the minimizing) of loss to the bank (*a*) by burglary, sneak-thieving, highway robbery and embezzlement; (*b*) by forgery, and by the fraudulent alteration of documents or instruments; (*c*) by the existence of loop-holes whereby dishonest persons indebted to the bank may escape, or repudiate, liability, through the use of carelessly drafted stationery forms or of ineffective legal forms, as hypothecations, agreements, verifications, etc.

Secondly, by the constant modernizing of methods, or “systems,” by which is meant the cutting away of the dead-wood of the past found to be cumbersome in the present,—to dispense with all unnecessary clerical labor, thereby accelerating the despatch of routine duties and increasing generally the efficiency of the staff.

To consider the first subject,—precautions against burglary, embezzlement, fraud, etc. Banks, it is reasonable to suppose, will continue to be regarded as the legitimate prey of the bold cracksman, the adroit thief and the scientifically clever forger and counterfeiter until crime and lawless intent have become things of the past. Banks, too, it is painful to record, will forever be liable to be victimized by their most trusted officers whilst human nature, with all its regrettable weaknesses, remains unbettered. *Facilis descensus!*

Knowledge of this ever-present exposure to attack from without, and of this possibility of betrayal of trust from within, has produced on those responsible for the safeguarding of the property and the interests of banks an attitude of eternal vigilance. It is impossible to foretell in what guise the next thief may appear upon the scene, or what his plans of operation may be; methods differ according to the skill and ingenuity of the individual thief, or thieves. Sometimes the medium of attack takes the form of nitro-glycerine inserted in the door-cracks of a country branch safe; sometimes it is a daring "hold-up" at the point of the revolver; sometimes, again, it is a sleight-of-hand trick at a bank wicket while the attention of the teller is diverted elsewhere; sometimes it is a snatch-thief relieving a luckless messenger of his wallet. At other times, it is a raised cheque, a forged signature or endorsement, or a counterfeit bill, at another time (and, fortunately, but rarely) it is some elaborate and colossal swindle or hoax; occasionally it is an adverse ruling of the Courts in a case of *Banker vs. Customer*; lastly, it may be a peculant bank officer. Every bank, therefore, in self-protection, is compelled to adopt the most effective methods of defeating such attacks from both without and from within; and, although not always successful in altogether preventing losses by robbery, fraud, etc., at least it is able in a measure to minimize them, and oftentimes to bring wrongdoers to their deserts.

The special "safety" paper (with particular watermarks, etc.) for cheques, drafts, deposit and withdrawal receipts and letters of credit, on which erasures and the use of acids are practically impossible without being readily detected; the steel-lined vault and time lock; the electrical burglar alarm; the revolver, rifle, and night-guard; the self-protection associations existing in some parts of this continent; the guarantee company's policy; the protectograph; the perforating stamp; the expert legal opinion on all forms, whether used by banker or customer, or both; the "strictly divided custody" and the "examinations at irregular intervals" of the bank's rules books, together with certain restrictions in internal routine which will occur to the bank officer—all of these things are evidences of the vigilance referred to on the part of the responsible executive of every bank. After the perpetration of every burglary, and after the discovery of every defalcation, means and methods

are thought out by Head Office in the attempt to prevent any such unfortunate occurrence in the future. Yet, despite all precautions, fraud, robbery and speculation; speculation, robbery and fraud occur and recur, and occur again, in all too rapid alternation. Fortunately, however, for the world of finance and commerce the majority of people *are* honest; indeed, the professional rogue and the misguided yielder to temptation are but very fractional, though dangerous, quantities.

So much, then, for the first broad line upon which Head Office is constantly working. Now, to consider the second, namely, the modernizing of routine by the cutting away of the deadwood of the past, and by the introduction of new ideas and of new methods.

These present days with their strain and stress require far more of men than was required of them in times passed,—require, in an ever-increasing ratio, more and more of brain and (particularly) of nervous system; also, in a steadily decreasing ratio, less and less of feet and hands in the form of manual labour. These present-day conditions of life are universal, affecting every profession, trade, sphere and environment whatsoever. As applied to banking, it means the brushing down of cobwebs, the revision and the pruning or the altogether throwing aside of the forms and procedures of the past, and the substitution therefor of a remodelled order of things (this new order itself being constantly subject to fresh remodelling), of new systems, of new inventions, of new notions—in fact, of everything which is enfolded in that one modern ideal which knows no finality, and which, therefore, proves so elusive a goal—the goal of “Up-to-dateness.” The struggle for this goal, which is synonymous to “Perfection” were that only within reach, is worthy of every encouragement. The only ground for rebuke, it appears to the writer, lies in the marked tendency of the present to decry and to belittle the past; it is decidedly humbling to realize that the same will be thought and said of ourselves twenty or thirty years hence, or less. We look back at the picture of “Old Honest,” the elderly bookkeeper of forty years service, perched on his high stool in the counting-house, leisurely pointing his quill; open before him lies a ponderous ledger, the record of years, filled with page upon page of that exquisite figuring in which he took such

pride—and we pity him. Yet, before another two or three decades have passed, a younger and still more virile generation, picking up the reins where we have surrendered them, will look back in the same manner—and pity *us*.

[That, too, may be the day of the great airship, rising at pleasure above storm areas and speeding through space at a rate incredible at this present time; the day of the “Clipper of the Clouds,” as prophesied by Jules Verne, when they will look down upon our latest boast—the auto-car—on the scrap pile, or used solely for utilitarian purposes.]

Thus, Head Office is continually striving to the one end of bringing up-to-date, *i.e.*, to the highest state of efficiency, its methods in everything. In this connection it might be added that this work is invariably left altogether to the invention and to the initiative of Head Office, material assistance in the way of ideas and suggestions being seldom received, though welcomed, from the branches themselves. It might result in much usefulness were each bank to offer a small prize either in books or money, say, halfyearly, for the most valuable suggestion received from its own branches (whether actually made use of, or not) during the previous six months. It is the custom of many progressive and successful manufacturers and others; a premium is thereby placed upon thought, skill and invention to the benefit of the originator, and, ultimately, of all concerned. Possible diffidence on the part of, especially, the younger men in submitting suggestions for the consideration of Head Office, might easily be overcome by allowing such suggestions to be made anonymously, or under a *nom de plume*.

Lastly, we have to look at the *converse* side of our subject, *i.e.*, to Head Office as it appears to be viewed by the branches in their ordinary everyday relations.

The writer fears very much that, notwithstanding all Head Office's endeavors on behalf of the branches, that department is not, treated impersonally, over-popular with them. For example, to the average branch manager the name “Head Office” implies red-tape and autocracy; it means a department from which is received at extremely frequent intervals mimeographed circulars demanding information on a great variety of subjects, much of the information requiring great

care in compilation; a department which seems to have little else to do but to plague this particular branch with memorandums of criticism on the advances; a department whose chief delight is to "turn down" the (to him) most promising business; a department quick to find fault, but chary to intimate approval; a department the staff of which are good with their *theories*, but who *cannot* possibly appreciate the difficulties of the branch manager in the fighting line, as it were. Again, to the average officer of the rank and file, "Head Office" means little more than a distant and abstract *bureau*—requiring a large number of returns and statements, daily, weekly, monthly, quarterly, and so on; issuing orders for removals to other branches; from which come the inspecting officers at inconvenient seasons; where the salaries are reviewed once a year.

The branch manager often becomes distressed and disheartened by letters received from Head Office; this applies principally to correspondence relating to loan and discount credits. He thinks Head Office too severe in its views regarding his liability accounts; that it is over-cautious and unenthusiastic, and inclined to "turn down" fairly safe banking risks without sufficient cause. The manager, too, resents not being allowed, as he thinks, credit enough for the intimate knowledge he possesses of local men and of local conditions.

On the other hand, Head Office never actually declines business offered without good reason for doing so, *but* such reason is not in every instance known by, nor communicated to, the branch manager. In one case, Head Office may have received unfavourable reports on the applicant (or his endorser or guarantor) from an independent source; in another case, the account submitted may be closely identical to some other account at another branch which has proved troublesome or unfortunate to the bank; or, the security named may not be of marketable value, nor even liquid, nor tangible; the loan may be required for an undesirably lengthy term, or for a decidedly speculative purpose; or, the rate of interest offered may perhaps, be lower than at which Head Office feels inclined to lend. Again, Head Office may be arranging to take over a large account, or group of affiliated accounts, requiring very considerable lines of credit, thus crowding out for the time smaller business,—whatever it may be, Head Office always has ample and good ground for every application for advances declined. The

branch manager should not allow himself to become discouraged; Head Office will be looking in to-morrow's mail for another letter of application from him to dissect,—and his is not the *only* branch in the service!

It is not the intention of the writer, neither would it be practicable in this brief paper, to enter upon the matter of *Credits*, for the discussion of this branch of practical banking would furnish matter enough, not for one article only, but for a series of articles. The writer may later return to that most important subject.

A. GORDON TAIT.

*The Royal Bank of Canada,
Montreal, 7th March, 1906.*

WISE WORDS OF WARNING.

One of the best means of preventing war, or of rendering it of short duration if it does come, is to be thoroughly prepared. This preparation must be made largely beforehand, not after war has actually been declared. It is so to a great extent with commercial and financial crises. While, perhaps, they may not be altogether prevented, their disastrous effects may be greatly circumscribed. The time to build the bulwarks that shall stay the waves of distrust is before the harbingers of foul weather are discernable.

It would be a strong indictment of the foresight and prudence of the banking community if wise provision for possible financial storms had not been made during the prosperous season through which we have been passing for several years. The ratio of surplus to capital ought to have been greatly increased, real estate and fixtures largely reduced or written off, and all doubtful securities eliminated. Banks that have not taken advantage of this golden era to strengthen themselves in every conceivable way will not only bring disaster upon themselves, but upon the commercial communities which they serve.—The Bankers' Magazine.

THE NEGOTIABILITY OF CHEQUES.

THOUGH the word "Negotiability" is not defined in the English Act, nor in the Canadian Act which is based upon the English original; the term is nevertheless one to which a definite and concrete idea is attached. We all know, or think we know what "Negotiability" means; and though there are probably very few people who could give a satisfactory definition of the word offhand, yet if the views of the multitude could be elicited by the test of asking for a concrete example; it is probable that in every case the opinions so elicited would be found to coincide. We may indeed imagine the answers being based on some such general example as the following. "If I give a 'bearer' cheque for ten dollars to my neighbor, and he cashes it at the bank, then no element of negotiation is introduced into the transaction; but if on the other hand, he takes it into a store at which he is in the habit of dealing, and gets the cheque cashed there, then the cheque is "negotiated" by the store-keeper; and every time a further exchange of the cheque for cash is made, until such time as it reaches the last holder (who ultimately presents it for payment at the bank,) there is a negotiation; and whether that negotiation occurs once or a dozen times, makes no difference to the general principle." This answer it is believed would represent the general attitude of the public in regard to the meaning and effect of "Negotiability."

If we could put the imaginary framer of the above reply once more under cross-examination, and ask him if he were positive that when the cheque was presented for payment at the bank by the original holder (without any intermediate circulation) there was then no negotiation; he might be expected to reply in some such terms as follows. "Of course in that case there is no negotiation, because otherwise every cheque would always be negotiated. If the mere cashing of a cheque by a bank implied negotiation, then there could be such things as a "Not-negotiable" cheque. This alone makes it perfectly clear that it is the circulation before presentation to the bank which attaches the principle of negotiability to a cheque." Up to this point it would be very difficult to find any fault in the reasoning of the "man in the

street" whom we are supposed to be interrogating. But suppose we should put a further question to him on the following point. "The case which you have suggested is the case of a cheque payable at a bank in the town in which the drawer lives. But it is obvious that in many cases a cheque may be given to a payee drawn on a bank in another town. It is clear that in such a case he will not be able to go the cheque cashed himself; and his probable course will be to present it at his own bank for collection from the other bank. Even supposing that there is no intermediate circulation of the cheque, and that he presents it for collection himself; is not the cheque, negotiated when it is being passed from one bank to another?" The answer to this latter interrogation would probably cause some difficulty to the witness; for on this particular phase of the question there would probably be found neither unanimity nor certainty of opinion amongst the general public. What then are the actual facts of the case? Every banker, of course, knows that in the case just referred to there is or may be a certain negotiation of the cheque. In other words a banker is said to negotiate the cheque which is delivered to him for collection by his customer, provided he immediately credits that customer with the amount of the cheque. But the important question is whether this which (for want of a better name) I may call professional negotiation has really anything in common with the negotiation which takes place when a cheque is circulated among the general public before being presented for payment.

A little examination will serve to show that the difference between the two principles of negotiation is radical and fundamental. In the first place a cheque which is negotiable by the general public can freely circulate amongst any number of persons, provided that in each case of transference the new transferee is a bona fide holder for value. With this provision the transference of the cheque can, theoretically, at least, be indefinitely repeated; and in each case the negotiation of the cheque is perfectly legitimate. But supposing a Montreal banker has handed to him for collection at a bank, say, in Ottawa, a crossed cheque, with the name of the drawer's bank in Ottawa written in the crossing, it is clear that the negotiability of the cheque is limited to an extent which bears no comparison with the complete transferability of a bearer cheque passing for value freely from hand to hand amongst the general public. The banker's

obvious course in this case is not to negotiate the cheque in the ordinary and untrammelled sense of the term, but merely to send it for collection to the particular bank named in the crossing. On the other hand as the words "Not negotiable" have not been written in the crossing, he is apparently at liberty to negotiate the cheque to the extent of advancing to his own customer the sum named, provided, of course, that he is well assured of the solvency of the drawer.

Again in such a case as the above where the cheque is merely "professionally" negotiated, the negotiation which may possibly take place clearly differs in another important respect from the negotiation which takes place amongst the general public. In the case of negotiation by circulation amongst the public, the element of negotiability *ceases* at the moment when the cheque is brought into a bank for immediate (or ultimate) payment; whereas in the case of professional negotiation, that particular kind of negotiability can only *begin* to operate from the moment when the cheque has been rendered immune to negotiability amongst the general public. In other words the one operation can only begin when the other has ceased to be effective.

And, once again, whereas general negotiability can only owe its inception to the deliberate and expressed mandate of the drawer (effected by his making the cheque a 'bearer' or 'order' cheque and by his not crossing it with the words "Not negotiable"); the particular negotiation which may take place as between members of the banking profession i. e., between one banker and another, so far from being due to a deliberate mandate on the part of the drawer really owes its existence to the mere accident that the banker to whom the drawer gives his mandate does not happen to be the same banker as the one with whom his drawee banks. This may be made more clear by an example. If A draws an ordercheque in favor of B on the bank of Montreal, of which B as well as A is a customer, then even though B may negotiate that cheque at some store where A is well-known, and though it may subsequently pass through several hands before being presented for payment; the only negotiation which takes place is the general negotiation by circulation amongst the general public. But, if, on the other hand, B happens to have a different banker from A, then the further element of professional or special negotiability may enter into the transaction; but it is obviously entirely due to a

mere accident of the situation—namely that A and B happen to have different bankers. Hence it follows that while negotiation amongst the general public is due to a deliberate (though negative) mandate, inter-professional negotiation is purely accidental. There would also appear to be a fourth difference between the two processes. In the case of general negotiability by circulation amongst the public the negotiation of a bearer cheque is theoretically unlimited, and such a cheque may pass through an indefinite number of hands; whereas in the case of the negotiability by a banker of a crossed cheque with the name of a particular banker written in the crossing, the special negotiability is strictly limited to one single transaction. So far from any negotiation of the general kind taking place, all that happens in this latter case is that instead of the drawer's banker paying the drawee, he pays in his stead the drawer's agent who has actually been nominated by the drawer himself.

The question then arises whether to circumstances which I have shown to be so totally distinct it is just or equitable that the same rules of law should apply; or whether the words "Not negotiable" (which were obviously in the first instance meant to apply solely to the negotiation which takes place by circulation amongst the general public) should be permitted in a case which is really so radically different to extend their operation to the inter-professional negotiation with which bankers are sometimes concerned? To take a concrete case, is it equitable that a banker who in accordance with the deliberate mandate of a solvent drawer has advanced the sum named in a cross cheque to the drawee, (trusting in the good faith and solvency of the drawer) should be liable to lose the whole of the advance, merely because the drawer happened to be drawing on another banker? Yet this is what very nearly happened in the leading case of the *National Bank vs Silke*, a case to which I have already alluded in a previous article in reference to another question. There is indeed no case which more deserves careful and accurate study than this, illustrating as it does in more than one regard the extremely unsatisfactory state of the present law of banking, so far as cheques are concerned. *Silke*, the defendant, had drawn an order cheque for £450 on the Alliance Bank in favor of J. F. Moriarty, which he crossed with the words "Account of J. F. Moriarty, Esq., National Bank, Dublin." Now what was the plain meaning of *Silke's* mandate? Surely it was nothing less

than an express injunction that Moriarty was to be paid £450 by his bankers, through the agency of the National Bank, and it might reasonably be argued that having named that bank specifically, Silke to the extent of that transaction made them his agents for the payment of the money. Silke obviously neither anticipated nor desired that his cheque should be negotiated in the ordinary acceptation of the term. Before the cheque was presented for payment (or collection) it was not intended for circulation; and had Moriarty banked at the same bank as himself, there could have been no room for even inter-professional negotiation. Moriarty on receiving the cheque, indorsed it and sent it to the National Bank, who thereupon credited him with the amount before collection. As a matter of fact they never succeeded in collecting the money, for in the meantime Silke had given orders to his own bankers to dishonor the cheque. Silke, in fact, having given the National Bank all reasonable grounds for believing that they would be perfectly secure in advancing the amount named in his cheque to their own client Moriarty, endeavored to repudiate the transaction, and refused to repay to the National Bank the sum of £450 which they had advanced on the security of his cheque. The National Bank accordingly sued Silke, and their claim was upheld not only in the Queen's Bench, but also in the Court of Appeal, on the ground that the cheque was a negotiable instrument when it passed from Moriarty to the National Bank. The unsatisfactory character of the decision can best be understood by supposing for a moment that Silke had drawn his cheque in a somewhat different form. Suppose, for instance, that he had made his cheque payable to J. F. Moriarty *only*; and that in the crossing he had written in two lines the words (The National Bank of Dublin)
Not Negotiable. Under those circumstances, it would appear that the Court of Appeal must have given a decision adverse to the bank, who relying on the good faith and the deliberate mandate of Silke had advanced to their client the sum mentioned in the body of the document. A little more knowledge of the letter of the law would it seems certain have enabled the defendant to mulct the plaintiff bankers in the sum of four hundred and fifty pounds. As a further illustration of the injustice of such a decision let us suppose that both Moriarty and Silke banked at different branches of the same bank, and that Silke under those circum-

stances had drawn a cheque in favor of J. F. Moriarty *only*, once more crossed with the words "Not negotiable," and with the name of the branch at which Moriarty banked written in the crossing. It seems inevitable that under such circumstances as these Silke would have been unable, notwithstanding the special drawing of his cheque, to repudiate the transaction which had taken place between different branches of the same bank. It is surely then unreasonable that the mere accident of a drawer and a drawee banking at different banks, should enable the drawer to disavow a transaction which his own mandate must show to have been his deliberate intention. When Silke first drew his cheque on the Alliance Bank he fully intended that Moriarty should be paid, by the agency of the National Bank of Dublin; and it is surely undesirable that the mere employment of a few highly technical words should be able to annul such a purpose at the expense of an innocent third party. Again can it be seriously contended that when Moriarty sent the cheque which he had received from Silke to his bankers the negotiation which the Court of Appeal held took place as between the payee and his bankers in any way resembles the negotiation which takes place when a "bearer" cheque is circulated amongst the ordinary public? The two processes are entirely distinct; and to different processes different laws should be made to apply. Section thirty-one of the English act states that "a bill is negotiated when it is transferred from one person to another in such a manner as to constitute the transferee the holder of the bill." Legally, of course, the decision of the Court of Appeal in *National Bank vs. Silke* makes it clear that when the National Bank of Dublin received in due course of post Silke's cheque endorsed by Moriarty, it was transferred to them in such a manner as to constitute them the holders of the cheque. But it is equally clear on any other than legal grounds that Silke intended the National Bank of Dublin to act as his agents in the payment of Moriarty; and a law which opens the door to such an act of repudiation as Silke contemplated and endeavored though unsuccessfully to carry out cannot surely be justified; especially when it is remembered that a slight difference in the wording of his mandate, would almost certainly have made that repudiation successful.

There seems no adequate reason in the nature of things why it should be possible for a drawer to change his mind after he has

once given his cheque to his drawee, excepting in the case of a cheque obtained by a deliberate fraud on the drawee's part. Even in such a case it would always be open to the drawer to send instructions to the collecting bank not to honor his cheque. But when the time for such precautions has passed by, if any party should have to bear the loss owing to possible fraudulent conduct, it can surely hardly be argued that the loss should fall on the shoulders of the collecting banker rather than on those of the drawer, who must be presumed to have had the best possible means of ascertaining the character and financial status of his drawee and of knowing facts of which the collecting banker may be in complete ignorance.

It is surely hardly too much to ask that whenever the law relating to cheques and bills of exchange is once more amended something may be done towards introducing a satisfactory definition of the term "Negotiation," in such a manner that the radical difference between 'Negotiation by circulation amongst the general public' and 'Negotiation as between bankers' (for the purpose of collection) may be clearly recognized. "Negotiation" says Bouverie's Law Dictionary "is the act by which a bill of exchange or promissory note is **put into circulation* by being passed by one of the original parties to another." This definition is satisfactory so far as it goes, in that it seems to recognize that the original and common use of the term is applicable only to transference between members of the general public; and it might well serve as a basis to which a proper and scientific distinction between the general and particular methods of negotiation already referred to might be attached. At the present time the same word is loosely applied to and the same laws are made to govern transactions which I have endeavored to show have really little in common with results which have very nearly proved disastrous to innocent parties.

As a matter of fact so great is the difference between the two methods of Negotiation (namely, Negotiation by circulation amongst the general public and negotiation by the process of collection from one bank to another) that the two methods might be geometrically expressed in totally different terms. While negotiation amongst the general public might be expressed by a

* The italics are my own.

circle lying beneath a given straight line; inter-professional negotiation might similarly be expressed by a single line drawn above the aforesaid given straight line from one fixed point to another. That processes which can be expressed so differently in geometrical language can have any real connection with each other is hardly arguable; and the law which can apply the same rules to both can hardly be considered to be in a satisfactory condition. It is perfectly just and reasonable that the drawer of a cheque should if he so desire be able to limit the circulation of his cheque amongst the general public. "A cheque is given for immediate payment;" and if the drawer should desire its original purpose to be served, without the possible annoyance and uncertainty which its circulation from hand to hand might entail, it is obviously only fair that legal machinery should be supplied to enable him to give effect to his wishes. That machinery has been provided by the words "Not negotiable," and their utility in conjunction with the crossing, and the word "only" is manifest, for without such additions a drawer would be powerless to prevent the indefinite circulation of his cheque. But it cannot be regarded as reasonable that words which were obviously meant to apply to one process, should be permitted to extend their operation to a process which is wholly different. What is wanted is some proviso in the Bill of Exchange Act by which the words "Not negotiable" shall, notwithstanding anything in the Act, not be deemed to apply to the case of a collecting banker or bankers.

And now let me briefly sum up the argument of my paper. (1) There are, it is suggested, in the case of a cheque, two kinds of Negotiability, namely, (a) the Negotiability by circulation amongst the general public; and (b) that limited Negotiability which may take place when a cheque is handed in for collection.

(2) These two methods of Negotiation are radically distinct, both in principle and in practice; and it follows that the rules of the law which apply to the one should not be rendered applicable to the other.

(3) In the case of a cheque for collection, there should be sufficient authority to the collecting banker to advance on the cheque, provided, of course, that he is convinced of the solvency of the drawer. The addition of the words "not negotiable" to any precautions which may have been taken by the drawer to prevent the circulation of his cheque amongst the general public should not

apply to the case of a collecting banker; nor should it be legal for a drawer to evade his deliberate mandate by any such addition.

R. E. MACNAGHTEN.

THE GROWTH OF BANKING.

The following bits of editorial comment published in the March number of *The Bankers' Magazine* (New York) will bear reproduction in Canadian financial papers. Words of warning and advice are not too many during these years of exceptional prosperity throughout the Dominion of Canada: "The marvellous growth and development of banking in this country in the last five or six years naturally excites great admiration, but this feeling will be changed if it shall be found that this rapid growth has been attained at the sacrifice of even a small degree of strength.

At the present time the legitimate demand for banking facilities seems to be well supplied and there would appear to be more reason for strengthening, in capital and surplus, the banks now doing business rather than for multiplying the number of smaller and weaker institutions."

* * * *

"In times of exceptional prosperity prophets of ill omen have little honour, either in their own country or elsewhere. Their predictions usually excite only hilarity and scorn; or, if regarded seriously at all, they are about as welcome as a skeleton at a wedding feast. The impatience of youth with the sage admonitions of their elders is not more marked than is the indifference or contempt with which the speculator and the boomer regard all suggestions of taking in sail when the weather is fair.

It has been said already that there is the best possible foundation for the present era of prosperity in the United States, nor are there any present indications of a slackening of the active development now going on in nearly all lines of industry and trade. The forces of man and of nature seem to be working in our behalf. There is good reason to hope and to believe that it will be a long time before the tide will turn the other way."

THE BANKER IN THE PROVINCE OF QUEBEC.

An Address delivered by Mr. R. D. McGibbon, K.C., on the opening of a course of Law Lectures to Bank Clerks, Montreal, January 23rd, 1905, under the auspices of the Montreal Clearing House Committee.

I TRUST the young Bankers who are present this evening realize the dignity and importance of their profession.

The Banker is concerned with every form of human enterprise and his knowledge must be varied and universal. From the simple operation of receiving the modest savings of a child to the complicated financial arrangements connected with some huge railway reorganization or government loan, the Banker deals with countless problems. He must keep track of the political constitutions and tendencies of his own and of foreign countries as well, for upon the issues of peace and war depend the fluctuations of the money market. The success or failure of crops both at home and abroad are matters of deep interest to him and the opening up of new territories challenges his spirit of enterprise.

The ambitions of ardent optimists must be restrained and kept within bounds by his influence and on the other hand, the hopes of timid or desponding customers require to be stimulated and their confidence and courage restored. Even when he stands in the relation of Banker to Statesmen controlling Imperial Exchequers he is expected and entitled to warn them against extravagance and folly. He is consulted on every imaginable question—investments of funds, purchase of securities, the opening up of new avenues of trade, the soundness of business proposals, the policy of Joint Stock Corporations and disputes between partners.

The Banker thus combines in his own person many of the spheres of the priest, the doctor and the family solicitor. He must be a good judge of human character and must early learn

to perform a most difficult task, that of saying "No" *decisively* but inoffensively, when apparently promising transactions are proposed to him and are rejected. He must subordinate all personal predilections, and friendships, remembering that he is merely an agent dealing with funds which are not his individual property but those of the Bank and its depositors, and that his chief purpose is to earn profits in legitimate business.

An infinite variety of transactions comes before a City Banker in the course of a day's work. Deposits—discounts—loans on collateral of shares, stocks, bonds, bills of lading, warehouse receipts and securities under Section 74 of the Bank Act, dealings in foreign exchange and numberless other items form a panorama of sufficient interest.

Of course the Canadian Banker is restricted in his operations to the objects and purposes set forth in the "Bank Act" and it becomes of the greatest importance to know exactly what things he may lawfully do, what things he is forbidden to do, and with respect to the former class, how they are to be done.

The course of lectures on the "Bank Act" (with which this series opens) will disclose to the young Banker the constitution of Canadian Banks, the manner in which they are organized, and licensed, the basis upon which their currency is issued and the rules applicable to their shares of stock. Without anticipating the manner in which Mr. Hall will deal with the subject, I may say that young Bankers will be more interested in the later portions of the Act, concerning banking operations and the delimitations, so to speak, of the Banker's office.

It is of prime importance to you to have a general knowledge at least of the principles upon which the business is conducted, and of the various contracts into which you are likely to enter.

The Banker must naturally be familiar with the laws applicable to bills and notes, and other negotiable instruments.

As a dealer in and lender upon shares and bonds and other securities, he must understand the rules applicable to these instruments in order to judge of their value, and to appraise the credit and security underlying them. Then he must know the laws relative to the personal status of the parties with whom he does business. He receives deposits for instance from and transacts business with minors, married women, partnerships, corporations and he must know the regulations relative to each.

Lending as he may occasionally have to do upon mortgage bonds of corporations, or accepting real estate by way of additional security in the course of the Bank's business, the Banker must be acquainted with the real estate laws of the Province. The laws relating to common carriers, bills of lading, charter parties and insurance must also be understood. In fact there are few branches of the law, civil or commercial, with which the Banker does not require to have a more or less intimate knowledge, and occasionally alas! he is forced to have a practical knowledge of Criminal Law.

In the Province of Quebec, you will have to remember the Civil Law is different from that which prevails in the other provinces of the Dominion, that is, the law with regard to civil rights and property.

By the British North America Act of 1867, the subject of "Banking" came within the category of subjects upon which the Parliament of the Dominion alone legislates.

It is manifest, however, that a Bank must at many points enter into contracts which are governed by the Civil Law of the different provinces. Exactly at what point the authority of the Dominion Parliament ceases, and that of the local legislature begins has never been decided, and never will be decided, but with respect to many contracts, the law undoubtedly applicable is that of the province.

The Province of Quebec is, as I have said, under the *regime* of the civil law, derived from the Roman Law, and similar in most respects to the law of France, as codified by the Code Napoleon in 1804.

After the conquest of Canada, by the British in 1759, the Canadians were allowed the use of their laws, by the Treaty of Paris, and subsequently by Imperial Legislation. The laws of the Country then were those prevalent in France according to the Custom of Paris, as modified by those Ordinances of the French Kings which had been registered with the Superior Council of Quebec and by the laws enacted by the Superior Council itself. These laws remained the law of the Province, with a number of modifications of more or less importance, until 1866 in which year our Civil Law was codified on the model of the Code Napoleon. The Code, which is published in French and English, contains in a clear form the entire body

of general law in force in the Province, consisting of some 2600 articles.

You will find that there is remarkably little difference between the principles underlying our law and those governing the law of other Provinces. In fact a Banker coming to Montreal from Ontario, New York or England will find it a matter of no difficulty to conform to our Civil Law and with one or two exceptions to which I shall refer, you may take it that, speaking broadly, our law is very similar to the common law, especially in commercial matters and that both are based on common sense, having been in many cases derived from the same source.

You will have, however, to recollect that in this Province our real estate system is entirely different to that which prevails in the other Provinces.

Here we have the hypothecary system of Roman Law. The English system of mortgage is a conveyance from the mortgagor or borrower to the mortgagee or lender, the mortgagor retaining what is known as the "equity of redemption," and the legal title to the property passing to the mortgagee, who on default takes possession or institutes proceedings for foreclosure.

In the Province of Quebec, on the other hand, the mortgagor of property does not convey it to the mortgagee, but hypothecates or charges it in favour of the latter. He acknowledges a personal obligation for the amount borrowed and as security, gives the lender the right of being paid by privilege out of the proceeds of the estate so charged, the borrower retaining the title in his own name. On default the lender brings suit upon the obligation for the amount of the loan, and having obtained judgment, brings the property to sale by the sheriff, and out of the proceeds he is paid the amount of his hypothec by preference.

The laws on the subject of married women are also peculiar. In the Province of Quebec unless the consorts have made a contract before marriage, they are held by the law to be in community, which means that a partnership is deemed to be established between them, each being entitled to one half. The husband is regarded as the head of the community or as the managing partner of the firm and may deal with the property according to his own discretion. These ante-nuptial marriage

contracts are quite usual and almost any form of settlement may be stipulated and a woman's private estate secured to her thereby. But married women are subject to a legal disability which does not prevail in the other Provinces. As a rule, she requires the authorization of her husband in all business transactions and married women are not free to deal with their property to the same unlimited extent as elsewhere.

Whether the Civil law is superior to the Common law in this respect or not, is questionable, but there is much to be said in favour of our system. Miss Betham Edwards in her recent book on "Home Life in France" quotes a French author as justifying the system in the following words:—

"Legislators consider that in wedlock, as in every other well organized association, an undivided seat of authority can alone prevent confusion and discord. Such undivided authority the law has naturally placed in the hands of the husband. At the same time, abuse of authority in financial matters has been carefully guarded against. Thus a wife with cause to complain of her husband's stewardship can obtain judicial separation."

Notwithstanding this opinion, however, you will hear occasionally delivered before some society of strong-minded females, violent criticisms of our law, but the rule in practice is quite satisfactory, and I imagine the domestic life of our population is not the less happy because of the laws relating to married life.

We also have a class of people against whom Bankers require to be on their guard, namely, interdicts, or those placed under restrictions by the Court on account of prodigality or drunkenness. These persons, although of full age, are not permitted to do business without the assistance of Curators given them by the Court on the advice of a family council, also one of our peculiar institutions. The names of these parties are published at the Court House, and Bankers need not greatly fear being taken in by them.

The only other point to which I might draw your attention is the existence of the Notarial system. In this Province, as in France and other countries under the Civil Law the Notary is an important feature of the community. He is not, as in Ontario and England, a mere verifier of documents, possessed of a seal and a signature, but is a member of a separate branch of the legal profession, required to pass examinations before

being admitted to exercise his functions, and he is usually a learned and upright man. The notaries are the conveyancers of the people. Certain deeds must, on pain of nullity, be signed before a Notary, such as deeds of mortgage or hypothec, deeds of donation, marriage covenants and others. In all cases a Notary retains the original deed, signed by the parties, but issues what are known as "authentic copies," i. e. copies certified to by him, the Notary, under his seal of office, and these authentic copies make proof in all Courts, and can be registered. The original deeds remain in the office of the Notary until his death, when they are placed in the public archives, where they remain. The system is an excellent one.

If the attendance at these initial lectures is sufficient to justify it, other courses may be arranged. Members of the Bar have signified their willingness to undertake other subjects in the same spirit which Mr. Hall and Mr. Surveyer have shown.

I trust that the result may be a highly educated and cultivated body of Bankers, who will preserve the standard which Canadian Bankers have until now maintained. The practice of banking is not inconsistent with the highest culture. The names of the poet Rogers and Lord Avebury (Sir John Lubbock) instantly occur as those of Bankers whose literary careers shed lustre on the name. In Canada, many of our leading Bankers are also lovers of art and literature, so that far from being a sordid calling, inimical to the humanities, the encyclopædic character of a Banker should make a well rounded and highly civilized individual. The influences of such a body upon the future of Canada and upon the ethics of our commercial life cannot be overrated.

Our Canadian Banking system is frequently lauded and declared to be, if not perfection, at least the next thing to it.

Whether these comments are entirely justified or not it seems to me that the strength of our Canadian Banking depends less upon the forms in which our Banking is conducted than upon the character, ability, fidelity and discipline, which have distinguished the officials of our Banks in the past.

The most ingeniously contrived system of business will break down unless the men who control it, possess the qualifications of high principle, wide knowledge and genuine enterprise.

Doubtless the routine work of a Bank seems very irksome and meaningless to the apprentice or junior clerk. Until he

realizes the significance of his work, the part it plays in the general administration of the Bank, and the importance of each link in the chain by which the business of the country is conducted, it is difficult to inspire him with that fervid enthusiasm which ought to glow within his breast.

When, at a later day, he feels himself a part of a great system upon which the commerce and finance of the world depend whose intelligent operation is an essential feature of modern civilization he will be convinced that his profession is worthy to engross the most superb powers of the human mind.

AS OUR NEIGHBOURS SEE US.

Canadian banks are finding it necessary to increase their paid-in capital, and a well-defined movement in this direction is observable.

As the note circulation is limited by the capital of the banks, and has now about reached the permissible maximum, this enlargement of the stock of the banks may be taken as an indication of their desire to place themselves in readiness to issue a greater amount of circulation than is now outstanding, as the requirements of business may demand. In the United States there is still a margin of about \$300,000,000 between the National bank notes in circulation and the capital of the banks. While the banks, as a whole, still have it in their power to issue a large additional amount of notes, individual banks desiring to increase their circulation, and now already up to the limit as measured by their capital, would find themselves hampered by the provision of the National Banking Act which restricts the circulating notes to the amount of the paid-in capital. Certainly, this requirement is superfluous on the score of safety.—The Bankers' Magazine.

LECTURES ON THE BANK ACT.

No. 1.

(Copyright—16 March, 1906.)

A. RIVES-HALL.

TO those who are actively engaged in the Practice of Banking, and who regard their profession as a pursuit deserving their best endeavours and the devotion of their highest talents,—who follow their mistress with no perfunctory service, but with the desire to see her prosperous, fulfilling the duties of her high position, acknowledged of all men,—a clear understanding of the rules of law, that require almost daily application, are of paramount importance. The banker is the guide and confident of men of all ranks, trades and professions; the farmer looks to him for aid to till his soil, and move his crops, the manufacturer to increase his output and collect his accounts, the merchant to buy his stock and sell his goods, and the humble labourer finds his strong box a safe place for his hard earned savings, and receives a modest reward for his thrift and economy. All these various pursuits must be understood then by the Banker, if not in detail at least in a general way; he must understand the nature and effect of mortgages and hypothecs; he must appreciate the legitimate needs of factories, and merchants. The legal force of contracts, bills of lading, warehouse receipts, brokers notes, transfers and assignments, must be at the front of his brain. It is said of my own profession that “the sparks of all the sciences are raked up in the ashes of the law” and how true that is any one who cares to glance at our reports, must acknowledge. Mr. Hughes, of New York, to whom the hearts of all policy holders are now pouring out their floods of gratitude, is an expert insurance man; other lawyers, no less famous, have with searching skill, and the confidence that perfect understanding alone can create, crossed-examined doctors on rare repulsive diseases, or startling operations; they have followed divines or philosophers into the mysteries of theology, and metaphysics, they have confounded skilful accountants, and laid bare the secrets of merchants more versatile than honest, and they have even—and this should be to their greatest glory—compelled Bankers to confess that their laudable efforts to

avoid a loss had the effect of securing unwarranted privileges and leaving other creditors out in the cold.

If all this be true of law, it may be equally claimed that the application of almost every law in our Code or Statutes will come into the experience of the Banker before many years of practice. The minor what are his rights to make or deal with deposits, what must be done when a maiden changes her status from that of *filie majeure usante de ses droits*, which we ungallantly called spinster in English, to that of wife, separate or common as to property; what are the powers of executors, or heirs; what is the effect of substitutions in favour of children and children's children; who can make contracts; when are contracts void and voidable; what are the essentials of a valid lease; and what are the thousand and one rules, that in commercial life protect the honest debtor and creditor, and make, so far as they can, the way of the transgressor hard? These are some of the questions that almost daily crop up in the practice of banking, and while I would not be so shorted-sighted or so wanting in professional etiquette towards my confreres, as to pretend that a knowledge of such matters would absolve the banker of the duty of consulting his solicitor, it is patent that without some acquaintance with these laws he would be in constant danger and more constant anxiety. Indeed, as the appreciation of our ignorance grows with our knowledge, I may venture to say the more general is the knowledge of law, the more general will be the demand for lawyers. Therefore on all counts I am justified in the effort to add a little to your present experience; although I undertake the duty with no greater confidence than the modest hope that I may not be repeating rules so familiar to you all, as to be mere truisms. It is, of course, not my intention, to lead you into the mazes of the Civil Law by indulging in dissertations on tutorship, successions, marriage and obligations; such questions would be too remote for any immediate advantage. I shall confine myself, therefore, very largely to that inexhaustible fountain of litigation, "The Bank Act"; a code of laws with which you are doubtless already quite familiar, although its interpretation, and application are changing and expanding from day to day with every new lawsuit, and every recent judgment.

But before taking up the Act itself it is essential that we start with a clear understanding of the nature of our subject, it

is of the first importance in every study to define our terms.

1. What is banking?
2. What is the relation between banker and customer?

1. WHAT IS BANKING?

Gilbart in his excellent work—"Principles and Practice of Banking" gives a definition that is as concise as it is naive—"Banking is a kind of trade carried on for the purpose of getting money." If that be all, I think we may all safely claim to be bankers, for, however much patriotism and fame may appeal to the politician, health to the physician or morality to the preacher, we are all trying to get money enough for our immediate needs at least, and by good luck a modest competence for our old age.

But Gilbart continues;—

"A banker is a dealer in capital, or more properly a dealer in money. He is an intermediate party between the borrower and the lender. He borrows of one party and lends to another; and the difference between the terms at which he borrows and those at which he lends, forms the source of his profit. By this means he draws into active operation small sums of money which were previously unproductive in the hands of private individuals and at the same time furnishes accommodation to those who have need of additional capital to carry on their commercial transactions."

The business of banking consists chiefly, then, in receiving deposits of money, upon which interest may or may not be allowed;—

In making advances of money, principally in the way of discounting bills;—and

In effecting the transmission of money from one place to another.

We find here the basic principles of banking, so far as banks of deposit, and banks of discount are concerned; but there is no mention of those very important powers enjoyed by our banks, and most corporate institutions of issuing notes—Banks of Issue.—

Morse, a notable authority in banking law gives a fuller definition.

"A bank is an institution usually incorporated, with

power to issue its promissory notes intended to circulate as money bank notes; or to receive the money of others on general deposit to form a joint fund that shall be used by the institution for its own benefit for one or more of the following purposes:—

(a) Of making temporary loans or discounts:

(b) Of dealing in notes, foreign and domestic bills of exchange, coin bullion, credits and the remission of money:

Or, with both these powers, and with the privilege, in addition to those basic powers, of receiving special deposits, and making collection for the holders of negotiable paper, if the institution sees fit to engage in such business."

Now in the light of these definitions let us consider the powers conferred on our banks by the Bank Act.

They are first of all banks of issue.

Section 51. "The bank may issue and re-issue notes payable to bearer on demand and intended for circulation; but no such note shall be for a sum less than five dollars, or for any sum which is not a multiple of five dollars, and the total amount of such notes in circulation at any time, shall not exceed the amount of the unimpaired paid-up capital of the bank."

They are banks of discount, and dealers in money.

Section 64. "The bank may open branches, agencies and offices, and may engage in and carry on business as a dealer in gold and silver coin and bullion, and it may deal in, discount and lend money and make advances upon the security of, and may take as collateral security for any loan made by it, bills of exchange, promissory notes and other negotiable securities, or the stock, bonds, debentures and obligations of municipal and other corporations, whether secured by mortgage or otherwise, or Dominion, Provincial, British, Foreign and other public securities and it may engage in and carry on such business generally as appertains to the business of banking."

And there are banks of deposit.

Section 84. "The bank may receive deposits from any person whomsoever, whatever his age, status or condition in life, and whether such person is qualified by law to enter into ordinary contracts, etc."

It is said that there must be a combination of moneys, a joint fund, as a primary condition to the existence of a bank, or a banker or the transaction of banking business. Such a joint fund is found in the capital stock of our incorporated banks;

but that is by no means the whole of its capital, its disposable means.

The trading capital comprises.

(a) The invested capital, that is the real capital paid down by the shareholders, and

(b) The banking capital which is created by the bank itself in the course of its business, and may be called the borrowed capital, including

1. Deposits lodged by customers.

2. The amount of notes which it is able to keep out in circulation,

3. The amount of money in the course of transmission, that is money it has received and must repay in some distant place at a future time.

A glance at the statement of the Bank of Montreal will show the tremendous importance of this banking capital.

Invested Capital.....	\$14,400,000.00
Banking Capital	
Notes..	\$13,000,000
Deposits..	119,000,000
.....	—————\$132,000,000.00

Of the deposits \$31,500,000 do not bear interest, so the total available funds of the bank bearing no interest, is upwards of 44 millions, the interest on which alone would be a modest competence, though the directors do not on that account relax their laudable efforts to make still greater profits.

There is still another form of the business of banks, of so little profit, however, that it has been left for development to safety deposit companies, namely, that of providing a place of safety in which the public may keep money or other valuables. In abandoning this privilege, as I believe our banks have largely done, they have avoided a grave source of danger as the celebrated case of *Mrs. Langtry vs The Union Bank of London* (Paget p. 182) testified. In the ordinary state of affairs, when nothing is said at the time of opening the account, and a banker takes charge of a locked box, supposed to contain valuables, (the contents of which, however, are not known to the banker, and to which he has no access) he would be held to be a gratuitous bailee, and bound to take the same care of the property entrusted

to him as a reasonably prudent and careful man may be fairly expected to take of his own property of like description.

In Mrs. Langtry's case the box of valuables was delivered to an unauthorized person on a forged order, and the bank consented to a judgment for \$10,000.

Finally, the business of banking includes such powers as are requisite for the safe and convenient attainment of the purposes of the bank's incorporation.

Recapitulating these various forms of banking, the powers given to banks, we find the heart of the business of banking to be

1. To provide the public with a convenient currency in the shape of promissory notes.
2. To receive deposits from the public.
3. To lend such sums with its own moneys for a profit, and to act as agent in the remission and collection of money.
4. To provide a safe place for the deposit of valuables.

THE RELATION OF BANK AND CUSTOMER.

It will at once occur to you after this resume of the power and duties of the bank that its relation to its customers may be in three forms.

1. That of a debtor for sums deposited with it, or creditor for advances.
2. That of agent for the collection of bills and notes.
3. That of a bailee, or as we call it depositary, of valuables entrusted to it for safe keeping.

Each form gives rise to very different obligations, and entitles the bank to very different privileges.

1. The relation of banker and customer is primarily that of debtor and creditor the respective positions being determined by the existing state of the account.

It may be imagined that it is easy to say off-hand who is a customer; but we may lose some of our confidence when we realise that lawyers have wrangled and judges have disagreed about this most important question.

A single transaction may make a man the bank's customer, and a long series of transactions may entirely fail to endow him with that characteristic.

It is true that the first transaction is open to some doubt, if for example, a cheque be paid in to open an account, although perfectly bona fide, with the real intention of continuing the account afterwards it might be difficult to say whether or no the man were a customer. But the doubt would probably arise only in the case of a crossed cheque.

The term "customer" obviously implies a certain amount of use and habit, but it will not cover the case of a man who has for years been in the habit of getting cheques cashed at a bank where he had no account. The determination should rest, then, on the existence of a bona fide account; and the keeping of a current account has been judicially indicated as the true test of a customer.

Money paid into a current account is lent by the customer to the bank and from the moment of payment in it becomes the property of the banker who is thenceforth bound to honour the customer's cheques up to its amount. In this respect the bank's position differs from that of the ordinary debtor, who may and in commercial affairs usually does for the sake of convenience, but is not bound to, honour a draft. The obligation is founded on a tacit understanding that long years of custom have magnified into a special contract. The principle was finally recognised in the case of *Marzetti vs Williams*:—

The plaintiff was a wine merchant and a ship broker, and he kept an account with the defendants who were bankers in London. The balance in his favour on the evening of the 17th December, 1828, was £69-19-6. A few minutes before eleven o'clock on the morning of the 19th a Bank of England note for £40 was paid into his account. About ten minutes before eleven o'clock on the same day a cheque, drawn by the plaintiff in favour of Sampson and Hooper for £87-7-6, was presented at the defendant's bank for payment. The clerk to whom it was presented, after having referred to the book, said there were not sufficient assets, but that the cheque might probably go through the clearing-house. The cheque was paid on the following day. Under these circumstances it was held that the plaintiff was entitled to recover damages although he had not proved that he had sustained any actual damage through the conduct of the defendants.

"This action" said Lord Chief Justice Tenterden, "is, in fact, founded on a contract, for the banker does contract with

his customer that he will pay cheques drawn by him, provided he, the banker, has money in his hands belonging to that customer. Here that contract was broken, for the defendants would not pay the cheque of the plaintiff although they had in their hands money belonging to him, and had had a reasonable time to know that such was the fact." This case must be considered," said Mr. Justice Parke, "as if the action were founded on a contract by the bankers to pay all drafts presented within a reasonable time after they receive such money, so as to allow them to pass it to their customers' account." And Mr. Justice Taunton added: "The jury have found that when, the cheque was presented for payment, a reasonable time had elapsed to have enabled the defendants to enter the £40 to the credit of the Plaintiff, and, therefore, that they must or ought to have known that they had funds belonging to him.... The case put in argument, of the holder of a cheque being refused payment, and called back within a few minutes and paid, is an extreme case, and a jury probably would consider that as equivalent to instant payment. That, however, is not the present case. Here the refusal to pay was not countermanded till the following day."

It is essential then that no unnecessary delay should be incurred in regularly making the entries, and that the ledger keepers should promptly and accurately inform the tellers of the actual condition of the customers account.

The dangers that threaten the peace of mind of you gentlemen are as great and portentous as those that have come down to us from distant times through the songs of ancient poets. The narrow and tempestuous channel between Scylla and Charybdis bristles unquestionably with violent problems, but with none that calls for a nicer hand up the helm or an eye more alert than that of steering the stately vessel of banking between the rocks of dilatory posting and the whirlpool of too hasty crediting an account. For should you at once credit a cheque or bill paid for collection, whether it is understood or not that your customer shall not draw against such a deposit until the document is cleared, the bank may be deprived of the very important protection afforded it by S. 81 of the Bills of Exchange Act. "Where a bank, in good faith and without negligence receives for a customer payment of a cheque crossed generally or specially to itself, and the customer has no title or

a defective title thereto, the bank shall not incur any liability to the true owner of the cheque by reason only of having received such payment."

This article has been carefully examined and interpreted in the recent case of "*The Capital Counties Bank vs Gordon* (1903 A. C. 240) in which it was held by the Privy Council that any bank which credits as cash before clearing, a crossed cheque with a forged indorsement, or any cheque to order or bearer, crossed 'not negotiable' to which the customer has no title or a defective title, is liable to the true owner in conversion, or for money had and received, just the same as if the cheque had been uncrossed."

The principle on which this decision is based is that the mere crediting the customer's account before the cheque is cleared makes the bank a holder for value, and precludes the contention that it receives payment for the customer. It is in that case no longer acting as an agent, but for itself. We shall examine this case more particularly in a later lecture, at present it is cited merely to point the moral that haste is quite as dangerous as, and may be more disastrous than delay.

The word "deposit" commonly used for the payment in of moneys by the customer, is misleading for it implies a trust which the bank is bound to observe. No such trust, of course, attaches; the money becomes the absolute property of the bank to deal with as it pleases, subject to no other obligation than that of paying back a like amount on demand.

The bank will be the debtor, naturally only for the absolute balance. "At any time it is only the balance of all the items up to that date that the customer can recover from the bank, or for which he can draw his checks upon it. It is the first item on the credit side, without regard to the identity or disparity of any particular sums. Simple as this principle appears, it is sometimes the only thread which can show the way out of complicated labyrinths, as is well shown by the case of *Devaynes vs Noble*. There the partner in a large banking-house died. The business was continued without any real, or even formal change. Some customers knew of the death, some did not. The daily course of the business continued in all respects as before, till the house failed. Then various customers sought to hold the estate of the deceased partner to satisfy their deficits. The question was on what principle the accounts should be made up;

for no hesitation was expressed as to the necessity of subjecting the estate to meet the unsatisfied claims of all persons who were customers at the time of the death of the deceased. Since then some had increased, and others had decreased, the amount of their deposits; members of each of these classes had received credits to the amount of their balances at the time of the death; other members had not. The arguments of counsel were very long and ingenious; the court gave the matter the most serious consideration, but regarded no solution as possible save that of a simple running account. It decreed that every payment made to each customer since the death should be applied in reduction of the debt or balance owing to that customer at the time of the death, and this equally (1) where the customer had since made no deposit but simply drawn checks; (2) where the customer had continued to deal with the firm depositing and checking, but on the whole increasing his balance; and (3) where, dealing in like manner, he had decreased his balance. The principle was stated to be unalterable, that each payment to the customer should be referred back and set against the earliest indebtedness to him; that the rule of law, sometimes laid down, that, if at the time of the payment the debtor neglects to appropriate it, the creditor may afterwards appropriate it to suit his own wishes, cannot be allowed to govern in cases of banking; but that in this business, in the absence of express contemporary arrangement or understanding; it will be considered that the appropriation of each payment to the discharge of the earliest then subsisting indebtedness is in fact made by the very act of setting down the two items in their order in the account. There are, however, exceptions to this rule, where a trustee or other person in a fiduciary capacity has paid trust money into his own current account there is a presumption that monies drawn out for his own use are drawn from his own rather than from the trust money, and any balance is available to answer the trust. (Paget p. 3.)

In the exceptional case of a customer who has several accounts in a bank failing to specify at the time of deposit to which of them it is to be applied, the bank may itself determine its application.

In the absence also of agreement express or implied the bank may combine two or more accounts of a customer either at the same bank or at different branches thereof; and where a

bank had a loan account and also a current account with a customer, and held security for his ultimate balance, it cannot appropriate the proceeds of the security to the loan account, independent of a credit balance on current account, but must treat the two as one account, and pay the real owners of the securities the surplus realised from their sale.

The customer has not, however, the corresponding right to combine accounts kept at different branches so as to draw cheques indiscriminately. Such a proceeding would involve the bank in endless worry and we can well imagine the indignant expostulation of the manager, should any customer have the coolness and hardihood to claim such a privilege. The bank has a lien on moneys paid in to current account, unless paid in and received for a specific purpose, as for instance, to meet a particular bill, but it must not arbitrarily exercise this right and close an account without notice. It must provide for outstanding cheques, and avoid embarrassing its customer unnecessarily.

The fact that the credit balance on a customer's current account is really only a debt due by the bank, subjects such balance to other legal incidents affecting debts. It is liable to seizure by formal process, by the customer's creditors, in which event the bank must strictly conform to the order of the Court. It is scarcely necessary to say to a body of experienced business men that such writs issued in the name of His Majesty must be promptly obeyed, whether the action of the seizing creditor appear reasonable or not. The declaration must be made, and in default, whether the customer have a credit balance or not the bank may be condemned to pay the creditor the full amount.

When a seizure is put in, and the customer wishes to continue his relations with the bank it is suggested by Paget that the best course for the bank to pursue is to open a new account to which cheques presented for payment may be debited and moneys paid in credited. For it is obvious that the balance due the customer at the time of the seizure must not be reduced by the payment of cheques subsequently presented, even though they bear a bona fide anterior date. Deposits subsequent to the seizure are not affected by the order, inasmuch as the debt they constitute from the bank to the customer was not due or accruing due at the date of service.

As a debt, at Common law and in English law, the customer's balance was liable to prescription as any commercial

claim, and a customer's claim to a credit balance on current account left untouched for six years may be barred by the Statute of Limitations. Our law provides for the prescription of commercial debts, bills of exchange, etc., by the lapse of five years; but section 90 of the Bank Act avoids its application to bank deposits.

S. 90. "As a condition of the rights and privileges conferred by the Act or by any Act in amendment thereof the following provision shall have effect:—

"The liability of the bank, under the law, custom or agreement to repay moneys deposited with it and interest (if any) and to pay dividends declared and payable on its capital stock, shall continue notwithstanding any statute of limitations or any enactment or law relating to prescription."

Concluding this discussion of the relation of debtor and creditor let us consider for a moment the bank's position in regard to the disclosure of the condition of its customer's account.

Paget says: "Whether the customer's account be in credit or overdrawn, the banker is morally and probably legally, bound to secrecy as to the state thereof, except on reasonable and proper occasion, or under compulsion of law." Morse enters more fully into the question in the following argument.

It has been laid down that a banker has no right to reveal the account with his customer. Though it has also been doubted whether an action for damages can be maintained by the customer against the banker unless specific injury can be shown. But this case is a very unsatisfactory precedent, since in it the question whether or not the relation between banker and customer created this duty of secrecy on the part of the former concerning the balance of the latter appears, for some unaccountable cause, to have been left to the decision of the jury. They found that the relationship did create such a duty, and the court allowed their finding to remain undisturbed. In another English case it has been held that, where a cheque is presented, and the banker has funds of the drawer, but not sufficient to meet this cheque, the banker has no right to disclose to the holder of the cheque the amount of such deficiency, and so to enable the holder to pay in the balance to the drawer's credit and then procure the cheque to be paid.

It may be very proper to deny the general right of a banker to disclose the state of an account to satisfy an inquiry, to the

possible great disadvantage of his customer (as, if the latter were thought to be embarrassed and his account overdrawn, his credit might be damaged by the appearance of his account, though a fuller statement of his arrangements with the bank would wear a different aspect).

It is no part of the business of a bank to constitute itself a bureau of information, or headquarters for reporters and gossips. But the case of a cheque-holder when the funds are sufficient seems very different; he has a right to whatever unincumbered funds of the drawer are in the hands of the bank, a right superior to any right of the depositor, and if the disclosure in such case be a harm to the depositor it is his own fault alone, for he drew the cheque and authorized the inquiry. One to whom the depositor has passed his interest in the deposit should have the same right to know its condition as the depositor, there can be no doubt that the bank should state the amount on hand, and give the holder an opportunity to decide what course he will pursue; and though the strict contract of the bank with the depositor, may perhaps, be only to pay if it has sufficient funds, it is a public institution, receiving valuable franchises from the State, and owes in return a duty to the public to conduct its business in such a manner as not to cause damage to those who have dealings with it, by refusal to do so simple and costless an act as to state the true condition of the deposit against which a cheque is drawn. Indeed, it seems clear to us that the duty of the bank can be placed on firmer ground. It would have no right to say to a depositor inquiring as to his account, with a cheque in his hand, "We agreed to pay your cheques if the funds were sufficient; but your cheque is too large, and we will have nothing to do with it, nor inform you of the true amount." Well, then when the depositor gives H the cheque for value, he (substantially and according to the best opinion legally) transfers the whole deposit (if less than the cheque) to the holder (subject to his acceptance), and therefore the holder has the same right of inquiry of the bank and as against the bank as the depositor.

It is unquestionable that a banker summoned as a witness—a *fortiori* summoned as a garnishee—must declare the balance of his customer at any given date. The fact or knowledge cannot be regarded as a "confidential communication."

And if a general creditor has a right to know the state of

the account in this way, when he inquires in the manner provided by law for making his demand upon the deposit, why has not such a special creditor as a cheque-holder an equal right, when he makes his demand in the way provided by law for this kind of demand on the deposit, namely, presentment of his cheque?"

2. *The Bank as Agent.*

In the collection of bills, notes, cheques and commercial paper generally, the bank acts as agent of its customer, and as such is subject to the rights and duties of any ordinary agent. The importance of this to bankers, says Paget can hardly be over estimated. The recognition of the relationship lets in all the immunities, reciprocal duties and indemnities to which an agent is entitled as against his principal. And although so far as cheques drawn on it by a customer are concerned the bank's position is primarily that of a debtor, the element of agency also enters into the relationship and constitutes the basis for the bank's right to require that cheques be drawn with due care, so as not to expose it to the risk of paying one which has been fraudulently altered to a higher face value; it justifies him in acting on a reasonable interpretation of ambiguous instructions such as an irregular cheque.

Our code deals with the rights and duties of an agent under the title of mandate, which is defined as a "contract by which a person called the mandator (the principal) commits a lawful business to the management of another, called the mandatary (agent) who by his acceptance obliges himself to perform it."

Mandate is gratuitous, unless there is an agreement, or an established usage to the contrary. The qualification permits the bank therefore in keeping with the well-nigh universal custom in modern times to make fair and reasonable charges for its services.

The principle obligations of the agent may be indicated shortly as follows:—

1. To execute the mandate which he has accepted.
2. To exercise reasonable skill and all the care of a prudent administrator.

This is leniently interpreted in the case of gratuitous mandate.

3. He is answerable for his substitutes, unless specially

empowered to appoint such, and if so empowered he is still answerable if he appoints one notoriously unfit.

4. He must render an account of his administration.

5. Must pay interest upon the money of his principal he employs for his own use.

6. Acting in his own name, he is liable to third parties.

7. He is also liable to third parties if he exceed his authority.

His rights:

1. He is entitled to indemnification for obligations to third parties contracted within his powers or ratified by his principal.

2. He has a privilege and right of preference for payment of expenses and charges. In banking, this right will be more fully discussed under the head of Banker's lien.

In adapting these general rules to the business of banking, it will be readily seen that the bank must use reasonable care and skill, keeping in mind the best interests of its customers, and so acting as to preserve the liability of all parties to him by proper presentment, protest, notice and care of securities, so far as reasonable diligence can accomplish their object.

The customer is entitled to expect and require of his bank that it shall not capriciously or needlessly deviate from the established system, whatever that may be, and if it does so deviate, and a loss is the result, he may look to the bank for compensation.

For example, if a bank neglects to send a cheque through the clearing house at the customary time and in the ordinary manner, and elects rather to keep it till a later hour and present it at the counter, then if it would have been paid through the clearing house, but is refused at the counter, this conduct of the bank, being contrary to its wont in such business, will render it liable to the depositor of the cheque for its amount.

The fundamental rule is reasonable diligence; upon the facts then of each and every case, must depend the final decision of the question whether the bank's conduct was reasonable or otherwise.

The exercise of this care and diligence obliges the bank to bear the loss when payment has been made to the wrong person, but the payment of a cheque or bill to which the signature of the drawer has been forged rests upon another principle, namely that such a document is a sham, a mere piece of paper. The

Bills of Exchange Act S. 24 specially provides for such cases.

The bank is entitled at all times, of course, to all the protection, consideration and indemnities to which an ordinary agent is entitled as against his principal; and if it has been misled into doing something on his behalf honestly and in good faith the customer would not be entitled to claim against the bank in respect of the act so done. So, if a customer, by his act accredited a bill with a forged indorsement, or put the bank to a greater risk than that involved by the possibility of a forged indorsement on a genuine bill the customer must bear the loss. This rule was laid down in a case of *The Bank of England vs Vagliano* (1891 A. C. p. 107).

In an action by the plaintiff for a declaration that the defendants, his bankers, were not entitled to debit him with the amount of certain forged Bills of Exchange accepted by him, it appeared that Vucina, a foreign correspondent of the plaintiff, was in the habit of drawing upon him sometimes making the bills payable to the order of C. Petridi & Co., another foreign firm, and that a clerk in the plaintiff's employment forged the signature of Vucina to bills purporting to be drawn on the plaintiff by Vucina to the order of C. Petridi and resembling the genuine bills which Vucina was in the habit of drawing on the plaintiff, and that he placed among the plaintiff's correspondence forged letters of advice with respect to these forged bills resembling the letters of advice ordinarily received from Vucina. By this means the clerk procured genuine acceptance of the plaintiff to the bills which he had forged. He then forged upon the bills the indorsements purporting to be those of C. Petridi & Co., payees named thereon, and was paid by the cashier of the defendants across the counter, moneys for which the bills were drawn. Before payment of the bills, the defendants were advised by the plaintiff in the ordinary course of business that the bills were going forward for payment. The customer having by his carelessness led the bank to believe that the bills were genuine, could not recover and his action was dismissed.

3. *Banks as Depositaries or Bailees.*

Banks sometimes take on deposit for safe keeping plate, jewellery and other articles of value, although I believe the custom is much less in vogue here than in England.

This is ordinarily a gratuitous contract, and the bank is known as a gratuitous bailee. Our code, on this point enacts that the depositary is bound to apply to the keeping of the thing deposited, the care of a prudent administrator; so the bank will be liable only for such neglect as it would not have permitted in its own affairs,—that is gross negligence. In the decision of what constitutes gross negligence there is ample latitude for difference of opinion; the discretion of the judge plays a conspicuous part, and the varying facts of each case will govern the exercise of that discretion.

In the case of *Giblin vs McMullin* (L. R. 2 P. C. 317) where a box containing securities was kept in the inner vault of a bank, and was stolen by the cashier, the Privy Council held that the owner could not recover as no charge was made for the service. “The banker,” said the Court, “is bound to take the same care of the property entrusted to him as a reasonably prudent and careful man may fairly be expected to take of his own property of like description.

This would necessitate the use by the bank of all available means of securing safety, and oblige it to employ the facilities at its disposal such as safes, vaults, etc., for did it neglect a precaution invariably taken with its own property, it would be guilty of gross negligence. But it is not bound, and cannot be condemned for failing to provide at its own expense the means of securing a higher degree of security for the articles deposited with him.

And in this respect the position of the gratuitous bailee is less onerous than that of the bailee for hire; for the latter is bound to adopt all procurable safeguards. If then, a bank were to make a charge for its services it would become a bailee for hire and bound to exercise the highest degree of care in the protection of the valuables.

As Paget points out, however, the distinction between a gratuitous bailee, and a bailee for reward is practically an academic question, as the modern bank is generally provided with the usual safeguards and appliances for the very highest degree of care.

In the *Langtry* case to which we have already referred, you will remember that the bank was held to be liable for delivery to a wrong person, not on the ground of negligence, but on the ground of conversion, on the basis of the distinction between

commission and omission,—between the active interference with property, involved in the voluntary handing over of the goods to a person not entitled to receive them, and the mere passive neglect of duty which may result in their loss.

I may venture the opinion that our courts would not apply any such subtle distinction, but would hold a delivery to an unauthorized person, even on a forged order, to be an act of negligence that would directly involve the bank's liability.

It might sometimes happen that the bank acting as a depository would seek to exclude its liability for negligence by a clause similar to those inserted by carriers in bills of lading, and there would then arise a nice question for some future jurist to decide the validity of such a clause. In the Civil law such contracts have usually been held to be contrary to public order and good morals (Troplong No. 75) and for many years our Courts followed this wise and salutary rule. Recently, however, our jurisprudence has undergone a change in this respect. Carriers by water are free to take advantage of any contract they can persuade or compel their patrons to sign. Railway companies do not enjoy a similar privilege, at least, not yet, for in consideration of the great and exceptional powers granted them, their engagements are subject to a more equitable supervision.

Happily, it is unnecessary for us to give a final answer to this question just yet, as our Canadian banks are too proud of their integrity, too conscious of their well-deserved reputation for honesty and fair dealing to seek to evade the consequences of their own negligence, by taking advantage of the ignorance or necessities of their customers. The Central Association of Bankers in England has come to the conclusion that such a clause would be generally impossible in practice, and where not impossible, inadvisable.

It may be opportune to add here a few words on that important class of documents known as *Deposit Receipts*.

These are chiefly for the use of those who lodge money in the bank merely for the purpose of security and interest. As a rule in such cases the money is not to be withdrawn in the ordinary course of business, but only after certain notice, or after the expiration of a certain time.

A considerable controversy has arisen as to whether these instruments are negotiable and transferable by delivery or en-

dorsement, and would be included in that class of negotiable securities which under Section 64 of the Act, the bank may take as collateral security for a loan.

In England the deposit receipt is not a negotiable instrument and the transfer thereof confers no right to the deposit account (Paget p. 20)—In the United States, on the other hand, they are negotiable—(Miller vs Austin 13 Howard U. S. 218). The negotiability of such documents depends largely on the wording, and if made payable "to order" it is probable that the Courts would hold them to be properly negotiable.

Even if not negotiable the holder could transfer such a receipt, by formal assignment, a copy of which must be served on the bank, before the transferee would be entitled to sue.

In paying such transferred receipts, however, the bank should exercise great care to assure itself of the title of the transferee.

In the case of Soderquist vs Ontario Bank (15 Ont. A. R. 609 1889) the bank was compelled to pay the amount of a deposit receipt a second time. The depositor, on leaving the country for some months, gave the receipt to a friend who forged his name and drew the money. On the return of the depositor he learned what had been done, but did not notify the bank or take any steps to recover. The friend left the country and after eighteen months the depositor sued the bank, and he was held entitled to recover.

This seems particularly harsh, but it serves to show what stringent rules hedge the bank about on every side.

Concluding this subject I may say that in the case of deposits for safe keeping, special deposits, and deposit receipts the exceptional privileges known as the Bankers' lien would not apply.

(TO BE CONTINUED)

QUESTIONS ON POINTS OF PRACTICAL INTEREST.

REPLIES may be obtained through this column from the Journal Questions Committee to enquiries of subscribers from time to time on matters of law and banking practice.

The questions received since the last issue of the JOURNAL are appended, together with the answers.

Letters of Credit upon Canada. Rates for paying same.

QUESTION 624.—I would be obliged if you would advise me upon what basis you consider the rate for paying drafts and letters of credit drawn by English correspondents upon Canadian banks should be calculated. The point I wish your information to cover particularly is, in cases of drafts drawn by English correspondents upon Canadian agents and letter transfers made by English correspondents in favour of Canadian agents, as to what you would consider a fair rate for a bank to pay these at.

I understand that some years ago such drafts and transfers were often paid upon the basis of a 60 day quotation. When I was in Montreal a year or two ago, the custom, I think, then was to allow a rate varying from $\frac{1}{4}$ to $\frac{3}{8}$ below the lowest demand rate between banks, on such transactions. While I do not think this has changed, I would like to have your opinion as to whether you would consider that a fair basis for drafts and letters of credit when drawn at the current rate for sight on exchange on London.

ANSWER.—The rates to be allowed in paying English drafts or letters of credit—depend on custom, and there is no doubt

that the custom in Montreal is to pay such bills at 60 day rate, and that is all you could collect.

(Note by Editor—There is evidence of a growing disposition among Montreal bankers to pay large credits at a more liberal rate. The bills referred to are entitled to much better treatment than has been accorded.)

Power of Attorney—Should acceptance of draft thereunder agree with date of instrument or date of receipt thereof.

QUESTION 625.—With reference to Powers of Attorney, etc., a point turned up at this office to-day which I do not think has been ever discussed in the JOURNAL of the Association, and I am taking the liberty of writing you, asking for your kind opinion in regard to it.

We received a bill a few days ago for collection, from an outside bank, drawn at 3 days' sight, and as the drawee was out of town for some days, we sent a P/A, of which the following is a copy, for him to sign, authorizing an official of this bank to accept the draft. The P/A was received through the mail a few days later (on the 14th), and the drawee when signing it had dated it the 10th inst. Now, should the bank official, when accepting the bill, date it the 10th or the 14th?

BANK OF

..... 6th November, 1905.

To Esq.,

This bank holds for acceptance and collection the under-mentioned draft on you...If you wish to accept it, please sign the Power of Attorney hereon; if not, please state reason for declining.

No. C 4570. Drawn by....., of.....
for (\$25.00) Twenty-five dollars.

Dated 3rd Nov., 1905, payable three days after sight.

.....

Manager.

Power of Attorney.

I hereby appoint or Attorney to accept the above draft, payable at the Bank of

Signed this 10th day of November, 1905.

(signed)

ANSWER.—The bank official in this case is acting as the agent of the drawee and cannot accept before he receives the Power of Attorney authorizing him to do so. In this case he should date acceptance 14th.

Bill of Lading—Power of freight agent to open car for inspection of goods, etc.

QUESTION 626.—I. If a draft is drawn at sight, with bill of lading to be given up on payment and the drawee wishes to inspect the car before he accepts it, can we let him have the B/L to do so, and if not what is he to do?

II. Has the freight agent power to open car for inspection of drawee without the bill of lading?

Do you not think that there should be an understanding between banks that the drawee of a draft should be allowed to inspect goods before he accepts or pays draft (to procure B/L)? No man wants to pay for anything that is not first class.

ANSWER.—(1.) If the Bill of Lading is to order, no. (2) Freight agent should not do so. This matter is one of agreement between seller and purchaser. If the buyer agrees to pay against documents he should do so. If he wants to see goods before paying he should so arrange with the shipper.

A mere trading name must have the word "Registered" added to the signature in Province of Quebec.

QUESTION 627.—A merchant doing business in the Province of Quebec under his own name becomes insolvent and has no discharge. He subsequently starts business under the same name, but with his wife as the registered proprietor and himself her manager or attorney. In all transactions he continues signing his own personal name as heretofore, and deposits money in a bank and endorses cheques, notes, etc., in this way, and not as attorney for his wife.

(1) Could one of his old personal creditors in any way seize any such deposit?

(2) Would a bank be in danger of being unable to recover from the assets of the business, in the event of a note, thus endorsed and discounted, being unpaid and the wife claiming that it was a personal transaction of her insolvent husband, and in no way connected with her business, the bank, of course, not having had any previous knowledge of the fact?

(3) Ought not a man in his position always to sign as manager or attorney, or has he a legal right to sign his own personal name in the conduct of his wife's business?

ANSWER.—The Legislature of the Province of Quebec at its 1905 session passed an Act compelling all parties trading under another name to add the word "Registered" to their signatures. Such an addition would put a banker on enquiry as to who was the real proprietor of the business.

This disposes of the difficulties suggested by your questions which might have arisen before this Act was passed.

Power of Attorney—Insanity of the principal revokes power of person holding same.

QUESTION 628.—John McDonald (aged 85 years) some ten or fifteen years ago gave a Power of Attorney to his son William, who has been carrying on his business ever since without any assistance from his father. John McDonald, so well advanced in years, is thought to be irresponsible at times. Can his attorney continue to act no matter what the mental condition of the principal is? I have read somewhere that an agent cannot act if his principal is not of sound mind, but I cannot now find the authority.

What would be the proper course to pursue in a case of this kind, when it was found that the principal through old age was incapacitated from taking any intelligent interest in affairs around him?

Would creditors have good claims against the estate for debts contracted by the attorney during the declining years of his principal's life, and when there is any doubt of the principal's capacity for business?

ANSWER.—We think the insanity of the principal is equivalent to revocation of a power of attorney or other authority, except in cases where the persons dealing with the agent are unaware as to the principal's mental condition. Any third party dealing with the agent, knowing that the principal was of unsound mind, is in the same position as if he dealt with the principal personally, and while certain contracts thus made, as for necessities, etc., in which it is shown no advantage is taken of the lunatic, would be sustained, the onus of proving this in every such transaction would be on the third party.

Acceptances—Must be signed by drawees or by their regularly authorized representatives.

QUESTION 629.—For some years John Blank with his sons transacted business under the name "John Blank & Sons" without having entered into any partnership agreement. John Blank died leaving no will. Two years before his death he appointed his son, Henry Blank, trustee, to carry on the business, and sometime after his death the heirs executed conveyances confirming Henry Blank in his position as trustee to the estate with full powers to act for them.

Drafts drawn against "John Blank & Sons" are accepted "Henry Blank, Trustee of John Blank, deceased." Drafts so accepted are returned for confirmation of acceptance. A bank returns one of these items without any remark. Would the fact that the draft had been returned for collection so accepted constitute a confirmation, or should the item be sent back again for confirmation?

Would it be safe to take the acceptance "Henry Blank, Trustee of John Blank, deceased" without having same confirmed when the draft is drawn on "John Blank & Sons"?

ANSWER.—The acceptance of drafts drawn against "John Blank & Sons" by "Henry Blank, Trustee of John Blank, deceased," is irregular. The Bills Act requires that the acceptance should be signed by the drawee. If the acceptance was "John Blank & Sons, per Henry Blank, Trustee," etc., and it was shown that Henry Blank had authority to sign the name of the firm to the acceptance, the same would be good.

It would not be safe to take the acceptance of "Henry Blank, trustee of John Blank, deceased," when the draft is drawn on "John Blank & Sons."

JOURNAL

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CANADIAN BANKERS' ASSOCIATION

JULY—1906

EDITORIAL NOTES

The method of calculating interest on deposit receipts varies sufficiently to attract more than passing attention. Some of our Canadian banks advertise for deposits of one dollar and

A Compound
Interest
Story.

upwards upon which they will pay interest four time a year. "It was not like that in the olden time," if the story now circulating in American papers be true. A man is reported to have found a savings bank pass-book showing a deposit of \$3, forgotten since his school days, forty years ago. His calculations of what the deposit represented at the present time made him apparently the proud possessor of what looked like a windfall of \$15. He moralized about the rapidity with which interest accumulates, and then sought out a friend with whom he made merry to the full amount of the sum he expected to get from the bank. His feelings may be imagined when, upon application to the bank, the morning after the night before, he found that in the good old times banks did not pay interest on sums less than \$5, and he had to rest content with the original deposit of \$3.

In a quarrel with the business methods of the Bank of England the London *Financial Times* dubs the great financial institution "a bit of the eighteenth century projecting itself into the twentieth." It is accused of acknowledging no responsibility except to its shareholders, and to the Government which is its principal customer. It is said to be a bank, a branch treasury, and a security trust all rolled into one, but only condescending to do business in its own old-fashioned way. Not content with attacking its methods, this breezy critic of the Bank of England calls it "an interesting relic of the Archaic banking age, when governments were the chief borrowers, and the public simply depositors." The critic contends that the Old Lady of Threadneedle Street does not perform properly the duties that have been imposed upon her, and that Lombard Street should cease to be the limit of her activity. He says that the basis of the bank should be widened and its organization enlarged. Continuing, this bold and outspoken critic says:—

The Bank of
England.

"Assuming that the Bank of England is to continue to hold the great central reserve of the country and to defend it against foreign demands for gold there can be no question that banking skill and experience of the highest class will be required in its future managers. A good deal more will be needed than can be expected from honorary governors and deputy governors hedged round by committees, or from half-a-dozen heads of departments who have simply to carry out instructions from above. Really competent bankers could not work for a day under the Bank of England system, which consists of cut and dried rules for all occasions. There is not an inch of room left anywhere for the exercise of personal judgment or of the give and take which is the essence of commercial negotiation."

But it is with his comments on the bill business of the bank that Canadian bankers will be interested. They are as follows:—

"As for the bill business of the bank, it is subject to a code almost Levitical in its minutiae. Apart from the gratuitous slight this casts on foreign bills, many of which are as good as any in Lombard Street, it is a suicidal restriction of the bank's sphere of business. A well-selected portfolio of

foreign bills might be worth more to it in periods of adverse exchange than a good many sackfuls of gold in its vaults. With such a support it might have faced demands for gold a little more courageously than it has done of late. During one of the recent gold scares the bank would not part with even a few hundred sovereigns without asking if they were wanted for export. It was courteously explained that if they were to be exported only light sovereigns could be given!"

Without expressing any opinion upon the necessity for or justice of this attack, there is more than a modicum of truth in the statement that so far as the Bank of England is concerned the free money market is more or less a myth. The bank itself is seldom free to do as it would like, neither does it allow much freedom to its customers. It must be left to those who are responsible for its management to determine if the business methods of a bank known to all the civilized world require the overhauling suggested by the writer in the London *Financial Times*, who, in closing his article, asks for the abolition of three-quarters of its little laws and customs in order that room may be made for a competent man to take the tiller and make the Bank of England in fact what it has hitherto been in theory only.

The criticism is a remarkable one, and we may possibly hear more of it. In any event Canadian bankers will be found unwilling to believe that the Bank of England and The Bank Act are the sole survivors of the money market of sixty years ago, and that their caustic critic is right in styling them "twin relics of an age of rusty theories and obsolete methods." We think something is due in the way of explanation and rejoinder from the Governor, Deputy Governor, and twenty four directors of the venerable institution, and we hope to hear more of the matter.

The annual address of Governor Matsuo to the shareholders of the Bank of Japan makes extremely interesting reading, and must have been received with much gratification by his countrymen, although some of the events to which reference is made have already been almost forgotten by those outside of the actual radius of war.

Economic Conditions in Japan.
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The Japanese financier alludes in very modest words to the entire destruction of the Russian squadron in the Japan

Sea as a "signal success," and he traces the complete change in business conditions resultant therefrom and the increase in foreign trade.

Later, when peace was finally concluded, a great business depression was experienced, and the condition of things was rendered worse by unfavourable climatic conditions causing failures in the crops of rice, silk and barley. But now Governor Matsuo is able to profoundly congratulate the stockholders of the Bank of Japan upon the prosperity of the country and the "sincerity of the nation's patriotism."

In closing his excellent address, which might well be accepted as a model by bankers in other countries, the Governor of this great bank, which employs a staff of seven hundred and fifty-six clerks, said:—

"Our business world is now gradually reverting to a condition of peace, and not only is the supply of capital in the home-market very abundant, but also our financial credit being established with increasing firmness abroad, capital tends to flow into the country in considerable quantity. Thus we have reached a time when the development of various enterprises is at hand. Only, when it comes to planning of these enterprises, unless officials and civilians alike profoundly consider the manner in which capital is to be employed, and unless they take into due account our labour-capacity and our supply of materials, there is no assurance that a disturbance of economic conditions may not ensue. I am persuaded, however, that those who engage in these enterprises will bring to the task judgment, proficiency, a due regard for local conditions and a sense of order, and that in the development of *post-bellum* economy they will make no errors of calculation. I, too, in dealing with the business of the bank, hope to steadily follow these lines of policy."

The first step in the direction of establishing a silver currency in China appears to have been taken early in the year 1905. It is true that the central government has not been directly responsible for this step, for it consists in the coinage of silver taels by the viceroy of Hu-Peh, for circulation in that province. If this example were followed in other provinces, and the weight selected for the coin were identical with that adopted in Hu-

Currency Question in China.
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Peh, the very desirable end of establishing a uniform standard of value, and a silver currency representing it, throughout the empire, might be attained. But the action under consideration is only a small step, though a significant one, in the desired direction. Should it be successful, its effects may be beneficial enough to lead to its extension. Even when a uniform silver currency has been established throughout the empire, there will remain problems of great difficulty for solution in bringing the currency into satisfactory relations with the gold standards of other countries. The agitation for currency reform in China has begun to bear fruit, however, and that is, in itself, a matter of no small importance.

Mr. F. Blake Crofton has been recognized for many years as one of the most sound and eloquent advocates for close union and brotherhood in the world-wide British Empire. To him the consolidation of the Empire is a religion, and in his latest contribution to the new Anglo-Indian journal, "East and West," he again pleads, in a message from the West to the East, for a consolidation of the whole Empire, claiming that it would guarantee to all its members security, peace and progress.

**Imperial
Federation.**

His allusions to the recent removal of the last of the British soldiers from Halifax and Vancouver, and his advocacy of an occasional exchange of troops with those from other parts of the Empire cannot fail to interest Canadians, and we therefore reproduce Mr. Crofton's article in its entirety for the pleasure and benefit of the many bankers who have a full sense of their Imperial responsibilities and of the grandeur of belonging to the British Empire.

Even if Mr. Crofton's views upon tariff questions are not altogether shared by all of his readers, nothing but admiration can be felt for his splendid exposition of hopefulness for the coming of a time when a "galaxy of free States" owing allegiance to the British Crown, with the cooperation of the United States or of Japan, or of both, will dictate peace and "unburden the nations tottering under the weight of their arms."

The JOURNAL has been asked upon several occasions for an opinion as to whether an attachment of monies deposited in any branch of a bank could be effected by service of process at any other branch, or whether the service of such process at any one office would bind all the offices of the bank. While the question has to be determined by the law of the province from the courts of which an attaching order may be issued, it would certainly seem that in its dealing with branches, the head office of a bank should be allowed a reasonable time to communicate with them.

**A Question of
Importance.**

As the law in Canada authorizes the establishing of branch banks, it ought, and probably would, compel such a course of dealing with them as will protect the bank and its branches from loss in transacting the business for which they are organized. An American lawyer, in writing upon a similar subject, says, "The law is common sense, and I believe it to be both common sense and the law that every one should be protected in the usual and customary carrying on of his business."

We publish elsewhere a valuable opinion upon this subject obtained by a Canadian bank a few years ago. The opinion is based upon the law of Ontario, but it may reasonably be accepted as a partial guide for banks operating in other provinces of the Dominion.

In discussing the introduction of the stenographer and also the typewriting and adding machines, a Canadian banker, himself a splendid arithmetician, regrets the comparative disappearance of handwriting and human lightning calculators of columns of figures and wonderful workers of percentages. He predicts that the bank officials of the next period will be unable to write by hand, and that a knowledge of figures will be of about equal value to that of some dead language. However this may be, and to what extent there exists in banks and mercantile offices an extravagant use of the typewriting and adding machines, it will indeed be regrettable if the introduction of time and labour-saving appliances in our banks and counting houses should result in the disappearance of pith and point in business letters, and in

**Time and
Labour
Saving.**

relegation to the past of that terse and comprehensive English which ensures immediate and painstaking attention when penned in good plain handwriting.

Many will be found to agree with a writer in *The Bulletin*, the official organ of the American Institute of Bank Clerks, who says of the excessive use of the stenographer and type-writing machine:

"This question is just now being raised by the government, where letter-writing in the executive departments has developed into such luxurious abundance as to cause a suspicion that officials are becoming uselessly diffuse. It is one of the marks of especial efficiency in a man in executive position that he can dictate short letters and make a few of them go a long way. There is, too, another side to the waste in diffuse correspondence, and that is seen in the loss of time to the parties addressed. So far as a man of ability is able to duplicate or, to any degree, increase his own personality in his work by utilizing the stenographer, his job is the gainer thereby and the proper function of the typewriter is realized. But that diffuseness that comes from merely keeping stenographers busy, is a grave wrong to one's self, one's work and one's correspondents."

With all of which many Canadian readers will devoutly agree.

The appearance of a Bill "intended principally," to use the words of the member of the Canadian House of Commons who introduced the measure, "to benefit the poorer classes of the people" is interesting for several reasons. The projectors, in the preamble of the Bill referred to, propose to provide an easy method for the creation of co-operative societies intended for "the benefit of the agricultural and wage-earning classes."

Industrial
and Co-opera-
tive Societies.

It is claimed that similar organizations have proved phenomenally successful in European countries, and Mr. F. D. Monk, M.P. in introducing the Bill expressed the opinion that "the time has come" to provide for co-operative societies in Canada.

Without discussing the details of the Bill, which will probably prove interesting enough to arouse the representatives of the masses to its importance, it is just as well to point out that any movement which is "destined to benefit the working classes" should receive the closest supervision of parliament,

press and people. Discussion may reveal much merit in the measure and also dissipate any doubt about the necessity for such institutions in Canada.

Mr. Monk, in advocating the formation of these co-operative societies having for their object the business of banking, is doubtless animated by a sincere desire to benefit the poorer classes of the people. But it is not at all apparent that the beneficiaries, the agricultural and wage-earning classes, are in need of any lessons in "the value of thrift and economy," and it certainly cannot be said that the chartered banks do not provide all the banking faculties needed in a new country. Quite the contrary.

Are such Soci-
eties necessary
in Canada?

In introducing the Bill in question, Mr. Monk stated that co-operation consists in a union of persons of limited resources for the purpose of securing or producing under favorable conditions the necessities of life, and also providing the means of investing small earnings, and incidentally encouraging "thrift among the people."

Advocates of
Co-operation.

He quoted the present Governor General of Canada, Lord Grey, as taking a lively interest in a similar movement in England, and the late Mr. Gladstone is claimed as an advocate of the co-operative societies, because upon one occasion he is reported to have said that the twentieth century would be "the century of co-operation."

By all such citations the members of parliament will undoubtedly be impressed, and rightly so. But surely it cannot be claimed that the success of such a movement in Germany, Belgium and densely populated European countries makes the establishment by act of Parliament, of industrial and co-operative societies in Canada essential to the welfare of her people.

If the main object of the proposed co-operative institutions is the business of banking, then the Dominion legislators may well be excused if they fail to find any signs of a national movement for the creation of associations by Dominion law such as those advocated by Mr. F. D. Monk. However, discussion of Mr. Monk's Bill can do no harm.

Mr. Ernest Heaton may well be commended for his efforts to make Canada and her resources better known by annually producing such a very useful compilation as "The Commercial Handbook of Canada," a copy of which should be available to every bank manager in the Dominion who desires to be the possessor of necessary commercial information of a general character.

Commercial
Canada.

Sir Gilbert Parker in a highly commending letter to Mr. Heaton refers to his enterprise in publishing this valuable work as "most patriotic, useful and practical." And so it is.

The United States government is being asked to change the law so as to permit National banks to loan money on real estate. The bill as submitted to the House of Representatives, authorizes National banks to lend not to exceed 25 per cent. of their capital stock and surplus on unincumbered real estate, exclusive of all improvements thereon, to the extent of 50 per cent. of a conservative market valuation thereof, provided that the loans are not for a longer period than twelve months. The bill further provides that no loan shall be made on farm land incumbered by prior liens, mortgages or judgments, and that banks shall not make loans on real estate outside of the state or territory in which they are located.

Dangerous.

A report on the bill has been made to the House from the Committee on Banking and Currency recommending its passage, and the following is a quotation therefrom:

"The real estate of the country has been settled largely by great cities, towns, and villages; large farming interests have grown and extended, all of which has greatly increased the domestic, commercial, and real value of all real estate.

"It is a fact that all state banks are permitted to make loans on real estate, and most, if not all, states permit their banks to loan any part or all of the capital or surplus on real estate, and a record of a state bank failing from this cause is exceedingly rare. A note secured by a mortgage on real estate can be foreclosed as promptly as any other debt, and is made negotiable and money can be realized on it the same and as promptly as in the case of other notes, bonds, or stocks. We consider that a loan on real estate made under the provisions of this bill would class up in soundness and stability with any

first class loans on commercial or personal security; therefore let us remove the long ban that has existed against the landed interests of the country which is the bedrock foundation of this great American nation.

"The agricultural interests of the United States are of great importance. They largely are feeding and clothing the world; they are largely the cause of our wonderfully large and growing exports, and the prime factor in maintaining the trade balances in our favor; they are likewise the prime factor in paying off the debts of our country, while they maintain our large stock of goods."

The measure does not meet with the approval of the Secretary of the Treasury. His hostility to the Bill is based on the fact that real estate is a slow asset, and that in a financial crisis or period of depression it would be difficult for banks to realize on farm property. The managers of our chartered banks if such a measure were submitted to the House of Commons at Ottawa would doubtless adopt the antagonistic attitude of Secretary Shaw. Fifty per cent of the capital and reserve fund of a Canadian bank invested in real estate would be a very undesirable asset for depositors to depend upon in time of trouble.

The Bankers' Magazine (New York), now in the 60th year of publication, makes the following favorable comment upon the Canadian system of note issues of the chartered banks:

**An Admirable
System.**

"Canadian bank notes are redeemed very much like checks. If a branch bank located also has a branch in the same town, the notes are presented to it for payment on the day following their receipt. If there is a clearing-house, bank notes are paid through the clearing-house. Under some circumstances it is necessary for the receiving bank to hold the notes until it accumulates a certain amount, when they are sent in for redemption. In seasons of extraordinary business activity a bank may have issued its own notes to the full limit of its capital &c., as possible, and to curtail the circulation of its rivals, being impelled to do so by the profit incident to the issue of notes. The constant interplay of these two forces—one making for the cancellation and retirement of notes and the other making for fresh issues—tends to keep the circulation elastic.

Redemption of the bank circulation is greatly facilitated by the branch system. Every branch bank is an agent of the head office, keeping a watchful eye for the notes of its rivals, and taking care that they are short-lived. In the United States the incentive to issue notes—the profit to be derived—is less than it is in Canada, and the motive for prompt retirement of notes of rival banks is lacking.

So admirably does the Canadian system of note issues work that it furnishes a very marked degree of elasticity to the bank note circulation, and greatly facilitates the prompt marketing of the Dominion's heavy grain and other crops. While a safety fund exists, made up of contributions from all the banks, it has never been called on to make good the notes of any failed banks."

The imposition of a tax on large fortunes has been suggested by President Roosevelt as worthy of attention by the United States Government. It seems a pity that the very active president when calling attention to a subject which while having certain ludicrous features has a very serious side to it did not state what in his opinion constitutes a fortune "swollen beyond all healthy limits." The most humorous suggestion is that the matter should be determined by popular vote. The real aim of each and every voter would then be to limit the wealth of someone else.

Tax upon Fortunes.

Our neighbours are not alone in their wrestling with this vexed question of what to do in the direction of securing for the common good a slice of the fortunes accumulated by the numerous multi-millionaires in their country.

The succession duty now imposed by the provincial governments in Canada is received with great disfavour mainly because of its unsatisfactory working and the apparent desire of each province to obtain more than its fair share of the tax imposed upon inherited wealth. Unless something can be done to prevent the possibility of securities belonging to an estate being taxed twice, shares in banks and railways will cease to be regarded as a desirable investment.

J. T. P. K.

THE HISTORY OF CANADIAN CURRENCY BANKING AND EXCHANGE.

Further Individual Cases.

We have already given, at some length, typical examples of Canadian banks, strong and weak, well and ill-managed, in their passage through periods of trial, arising alike from prosperity and depression, during the sixties and seventies. It will not be necessary, therefore, to do more than briefly outline some of the other institutions which were their contemporaries, and which simply exhibit variations of the histories which we have already traced.

The Niagara District Bank, whose early history has already been recorded, suffered many vicissitudes, having passed from a chartered to a free bank and from a free bank to a chartered, in its search for capital, first at home and then abroad, and then at home again. In seeking to set its sail to so many breezes, it required an endless series of amendments to its charter; now extending and again contracting its authorized capital, and obtaining extensions of time for its payment, but always without making any substantial headway. Its highest amount of authorized capital was \$1,000,000, which, after several extensions of time, it was authorized, in 1863, to reduce to \$400,000. In 1868 it had only \$305,224 of paid up capital, and even at the end of the great speculative boom in bank stocks, it had but \$361,466 of paid up capital in 1874. But while the bank had a small business it was apparently a fairly safe one, and its stock, though seldom quoted on the exchanges, seemed to maintain a fair average value. It had but two agencies one at Ingersoll and the other at Port Colborne. In 1873 Senator Benson was president, and Thos. R. Merritt vice-president, while C. M. Arnold was manager. However the final change for the Niagara District Bank was near at hand, hastened by losses in 1873.

In 1873, on petition of J. Morison and others of the city of Toronto, the House of Commons passed a bill to incorporate the Western Bank of Canada, but the Senate changed the name to that of the Imperial Bank, which a year later was amended to

the Imperial Bank of Canada. The authorized capital of the bank was \$1,000,000, and the head office was to be in Toronto. At the time it was chartered, however, there were numerous signs of a turn in the tide of prosperity; money was scarce and bank stocks were becoming a drug on the market. Hence it was found necessary to have the time for securing the minimum half million of subscription extended for another year. Even then the provisional directors found it expedient to seek union with the Niagara District Bank to secure their charter. After some negotiations terms were arranged, and in the spring of 1875, on petition of the two banks, Parliament passed an act providing for their amalgamation. The act required that an agreement embodying the terms of the union should be drawn up and approved by the shareholders of both banks. The agreement was duly executed and the amalgamation was completed on July 2nd, 1875. The Imperial Bank being thus organized proceeded to make the first call of ten per cent. on its own stock, payable on Aug. 9th. The general manager secured for the new bank was Mr. D. R. Wilkie who has been identified with the institution ever since.

The first annual meeting of the Imperial Bank was held on July 5th, 1876. Already the joint capital amounted to \$804,883, with a reserve fund of \$25,000. Its recent experience seemed to have given the Imperial a taste for taking over other banks. Though numerous requests were made for the establishment of branches, yet only one was undertaken, and that was at Welland, where a branch of the Molson's was taken over. The management declared its policy as unfavourable to numerous branches. The following were elected directors of the bank: H. S. Howland, president; T. R. Merritt, vice-president; Hon. J. R. Benson, J. Smith, Wm. Ramsay, R. Carrie, T. R. Wadsworth, P. Hughes, and J. Fiskin.

The Imperial Bank, as a new institution, came into existence too late to be affected by the speculative business of the early seventies. Being managed from the first on sound and conservative lines, it has steadily held its own in the worst of times and has made most satisfactory progress when conditions were more favorable, and is typical of the best traditions of Canadian banking.

The Ontario Bank, with the disappearance of so many of its predecessors became, in the seventies, one of the older financial institutions of the country. Under the able management of

its founder, Hon. John Simpson, it had continued a steady expansion. Its earlier business was chiefly connected with the agricultural interests of the country, especially in milling and produce, and was therefore on a very sound basis. In the later sixties the bank developed a connection with the lumbering industry, which was considerably expanded, ultimately to its embarrassment. It also became interested in manufacturing.

As the business of the bank expanded the management found increasing difficulty in conducting it successfully in such a small centre as Bowmanville, hence, notwithstanding the recent erection of a new head office, there arose, in 1869, quite a strong demand for removal to a larger centre. An act was secured authorizing the removal of the head office to any other place in Ontario or Quebec. However, the interests opposed to the change proved the stronger, and the agitation was disposed of for another five years. The board of directors at this time consisted of Hon. J. Simpson, president; T. N. Gibbs, vice-president; J. Dryden, J. P. Lovekin, D. A. McDonald, Hon. W. P. Howland, and Wm McMurtry. The general manager was Mr D. Fisher.,

In 1871, the business of the bank having considerably increased, especially in Toronto and Montreal, it was decided to take advantage of the authority given in the new Bank Act to increase the capital by another \$500,000, making the total \$2,500,000. The new shares were to be allotted to the stockholders at par; and as the existing stock was at a premium of 20 per cent. few of them were likely to decline the offer. The premium actually realized was about twelve per cent. At the annual meeting of the bank in 1872 the new stock was reported as practically all taken. The year had been prosperous and \$50,000 had been added to the reserve fund, making it \$300,000. The number of new banking schemes before the country and the number of other enterprises being promoted, with the general air of speculation which prevailed, led the management to express a strong apprehension of over trading, facilitated by the easy refuge from its consequences which was then afforded by the bankruptcy system of the time. This prediction was of course amply fulfilled. In 1872 the bank added another \$75,000 to the reserve fund, and this was repeated the following year. The question of the transfer of the head office was once more brought up, and it was intimated that further legislation would be necessary to accomplish this. The necessary act was secured

during the following session of Parliament, and at the annual meeting in June 1874 it was decided to remove to Toronto. In view of the expected increase of business, owing to the change, it was decided also to enlarge the capital by another \$500,000, making it \$3,000,000. The change in location was reflected in the new board of directors; Hon. J. Simpson, president; Hon. W. P. Howland, vice-president; Hon. D. A. McDonald, C. S. Gzowski, D. McKay, Wm. McGill and Wm. McMurtry. Mr. Fisher still remained general manager.

As it turned out, neither the removal to Toronto, nor the correctness of the management's analysis of the trade situation of the country, saved the bank itself from participating in the heavy losses which ensued. The management had to report heavy losses in 1876 and in subsequent years, culminating in the collapse of a lumber firm, in 1880, whose assets the bank had to take over for a debt of \$327,770. The ultimate result was that the bank, like several others, was forced, in 1882, to reduce the value of its capital stock by fifty per cent. and otherwise curtail its business. Though with better times the bank recovered its credit, it has never expanded to its former dimensions.

One of the most successful banks of the period, and one which has maintained a high record throughout all the fluctuations of trade at home and abroad, was the Dominion Bank. It was chartered in June 1869, the head office being fixed at Toronto. It began with a capital of \$1,000,000, in shares of \$50 each, and was authorized to commence business when \$400,000 was subscribed and \$100,000 paid in, the whole capital to be subscribed and paid in within four years. During 1869 and 1870 the organization of the bank was being carried on by the provisional directors. Several difficulties which at first arose were successfully overcome, and by the middle of December it was announced that the required capital had been secured, and the first call for 25 per cent. was made. The first meeting of the shareholders was held on Jan. 10th, 1871. The provisional directors reported that they "have had many applications from different sections to open agencies, with offers to subscribe for stock to a large amount, but they have been very careful in committing the bank, and the only promises that have been made are to London, Uxbridge, Oshawa and Whitby." They thus avoided the snare which proved so disastrous to the Royal Canadian Bank. The services of Mr. R. H. Bethune, for

some time manager of the Quebec Bank in Toronto, were secured for the position of cashier, or general manager. The first board of directors was composed of the following gentlemen: Jas. Austen, president; Peleg Howland, vice-president; Jas. Crowther, Jas. Holden, J. H. Mead, Frank Smith, and Jno. Worthington.

From the first the management of the bank was recognized as representing an exceptional combination of prudence and enterprise, and its stock soon stood in the first rank of Canadian banks, a position which it has always maintained. The bank at once laid down the principal of maintaining a strong reserve fund. At the end of its second year of business, in 1873, it had a paid up capital of \$888,400, with a reserve of \$105,000, \$19,000 of which was realized from premiums on stock; the premium being taken by the bank instead of being allowed as a bonus to the stockholders, as in the majority of cases.

From the first it paid dividends at the rate of eight per cent. Within the second year of its operation deposits had increased from \$195,000 to \$1,049,000, and discounts amounted to \$2,233,000. Mr. Wm. Cawthra remarked, at the second meeting, that so far there had been but one bad debt to record, and the success of the institution had surprised him. At the same meeting it was announced that the remainder of the stock, \$111,600, would be allotted to the shareholders at a premium of five per cent. Even during the period of depression the bank continued to add to its reserve. In 1877, \$20,000 was added to that fund, which then stood at \$299,000, with a capital of \$970,250. At the end of the period, in 1880, it amounted to \$355,00, with notes in circulation of \$845,724, deposits of \$3,246,832, and discounts of \$3,429,120. With improved conditions its capital was increased to \$1,500,000 in 1882. By the end of 1884 the reserve amounted to \$930,000, and despite the crisis of 1885 another \$50,000 was added to it in that year. The progress of the bank since then is matter of current knowledge.

The weakness of the Gore Bank, which was finally absorbed by the Canadian Bank of Commerce, led to various efforts to establish another bank at Hamilton. In 1868 several gentlemen of that city obtained a charter for a bank there, under the name of the Bank of Agriculture, with a capital of \$400,000. This institution, however, proved to be still born. The Gore

Bank disappeared in 1869, and Hamilton was without a bank of its own until 1872, when some of the most representative and enterprising business men of the city undertook to establish the Bank of Hamilton. The act of incorporation, passed in 1872, fixed the authorized capital at the usual amount of \$1,000,000, \$100,000 to be paid in before the bank began operations, and another \$100,000 within two years. These conditions were amply fulfilled; for within the first year of its existence its paid up capital amounted to \$400,000. The first meeting, for organization and the election of directors, was held early in Aug. 1872. It was announced by the chairman, Mr. D. McInnes, that already they had applications for stock to the extent of nearly two millions. For the present, however, they proposed to keep within the limits set in the charter; the new Bank Act permitting of an extension of the capital when deemed advisable. The following gentlemen constituted the first board of directors, D. McInnes, president; Jno. Stuart, vice-president; Ed. Gurney, Jas. Turner, D. Moore, Jacob Hespeler, and Hon. Saml. Mills. Mr. Hammond, who had been for some time manager of the Quebec Bank at Toronto, was appointed general manager. The bank was opened for business in the beginning of September. At its first annual meeting the directors were able to report a paid up capital of \$393,980, a note circulation of \$143,297, deposits of \$231,000, discounts of \$651,715, and a sufficient profit to admit of a dividend of eight per cent. Within another year the note issue and the deposits were doubled, and the discounts nearly so, while more than half of the capital was paid up. The growing stringency of the money market caused the directors to refrain from making calls upon the capital stock as rapidly as they had intended. But one branch, at Listowell, was established the first year, and another the second year, at Port Elgin, both towns on the line of the new W. G. and B. Railway, in which the capitalists of Hamilton were specially interested. It was the expressed policy of the bank to expand slowly in the matter of branches, the anxiety for which had been the undoing of several ambitious institutions. Aiming to associate itself with the agricultural interests, which were least responsible for the hard times, and had been least affected by them, the business of the bank steadily expanded. During the panicky period of 1879, following the collapse of the Consolidated and other banks, there was a temporary run upon the Bank of Hamilton, precipitated chiefly by

the financial embarrassment of the president, Mr. McInnes. This was a mere episode, however, and the close of the period of depression found the bank with three fourths of its capital paid up, a note issue of over half a million and deposits of over a million. Its further prosperity was unaffected by the crisis of 1885 which was severely felt by a number of banks.

The bank which afterwards became the Standard Bank, was at first incorporated, in 1872, as the St. Lawrence Bank, though the name given in the petition presented to Parliament, was the Bank of Canada. Its head quarters were to be in Toronto, its authorized capital was \$1,000,000, and it was made subject to the usual conditions of the time. Its chief promoter was Mr. J. C. Fitch. By the middle of Oct. 1872 a sufficient amount of stock had been subscribed to prepare the way for organization. The provisional directors had engaged as manager Mr. K. F. Lockhart, who had been fifteen years in the service of the Ontario Bank, being for some time in the Montreal agency and afterwards manager of the branch at Whitby. The first meeting of the shareholders was held on Feb 18th, 1873, when the following were elected as the first board of directors: J. C. Fitch, president; John Cowan, vice-president; Capt. Thos Dick, A. T. Todd, W. F. Allen, John Walker, of London, and R. C. Jamieson, of Montreal. The following year Hon. T. N. Gibbs took the place of Mr. Walker on the board. On March 23rd the bank opened its doors for business. At its first annual meeting, July 2nd, 1874, it was able to report that, notwithstanding the dull times, it had made satisfactory progress. Its paid up capital was \$426,130, with deposits to about \$450,000. Contrary to the policy of the banks we have just been dealing with, the St. Lawrence Bank sought to acquire as many branches as possible. Within the first year it had established eleven branches, or agencies, eight of them at points not occupied by other banks. This anxiety for expansion was not a very reassuring feature. The report for January 1875 certainly showed a very flattering expansion of business, but it was soon proved to have been acquired at the expense of safety. The policy of the bank becoming distrusted, the public lost confidence in it and immediately began to withdraw their deposits and look askance on its notes. When, therefore, the second annual meeting took place, on July 7th, 1875, there was a large number of interested shareholders in attendance. In their report the management stated that, owing to stringency in the money

market, their efforts had been directed, for some months past, to reducing the business of the bank and providing for the redemption of circulation and withdrawal of deposits. So far they had been able to meet all demands, the customers of the bank showing their readiness to assist it. From March to June, \$700,000 had been employed in reducing deposits and note issue. There were, of course, no dividends for the last half year, and they had found it necessary to close several of the branches. There still remained due and unpaid on calls, about \$200,000, which if paid in promptly would enable the bank to go on upon a better basis. The management naturally came in for considerable criticism and some change in the direction was inevitable. The new board was composed as follows: Hon. T. N. Gibbs, president; W. F. Cowan, vice-president; W. F. Allen, J. C. Fitch, R. C. Jamieson, A. T. Todd and Dr. Norton.

The board found it necessary to put the bank upon a new and ~~sounder~~ basis. As a means to this end, it was considered expedient to reduce the value of the capital stock. In their petition to Parliament, in the spring of 1876, the directors represented that their paid up capital had been so reduced by losses that the nominal capital should be made to correspond with it, but with power to restore it to the original amount. The temporary reduction of the stock was effected by substituting for each \$100 share one full share of \$50 and a half share of \$25. But the stockholders were required to make up each half share to a full share within two months otherwise the fractional shares would be forfeited to the bank. Power was granted to increase the capital, if necessary, to \$2,000,000. In order apparently to sever as far as possible all association with past conditions, the board asked that the name of the bank be changed to the Standard Bank, which was granted. A period of unusual financial depression is not at all favourable for the recovery of credit, and the Standard Bank barely held its own from 1876 to 1880. In Sept. 1880, only half of its capital was subscribed and paid up, its note issue was \$420,000, and its deposits scarcely \$800,000. The board of directors had remained practically unchanged: Mr. Fitch had dropped out and Mr. John Burns had taken his place, while Mr. J. L. Brodie had become general manager. From 1880 the position of the bank steadily improved. Although, on the authority of the act of 1876, the authorized capital was given as \$2,000,000, yet the subscribed and paid up capital has never exceeded the original

sum of one million. After 1880 attention was devoted to the accumulation of an adequate reserve fund which was ultimately made equal to the paid up capital.

Among the numerous banks chartered during the optimistic year of 1872 was the Superior Bank. Among the charter members we find the names of James Dick, Adam Crooks, J. Shedden, S. Nordheimer, James Michie and Geo. A. Kirkpatrick. The head office of the bank was appointed for Toronto, its capital was \$1,000,000, and it came under the usual conditions of the time, including the provisions of the new Bank Act. The directors, finding it difficult to obtain the necessary minimum of subscribed stock, seem to have thought that the name was not sufficiently attractive; hence, during the following session of Parliament, they petitioned to have it changed to that of the Imperial Bank of Canada. A bill to this effect passed the Commons, but the Senate having appropriated that name for the Western Bank of Canada, substituted the name 'Federal Bank,' which remained its future appellation. The bank also secured an extension of a year in which to complete its organization, and still another year had to be granted before its provisional directors were able to comply with the conditions. The preliminaries being safely accomplished at last, the bank opened its doors for business, in the latter part of August, 1874. At its first annual meeting, on July 7th, 1875, it was reported that the business of the bank since its opening had been very considerable and of the best quality. The profits permitted of a dividend at the rate of seven per cent. and the carrying of \$6,000 to a reserve fund. The subscribed capital was \$800,000, of which \$576,729 had been paid up. The note issue already amounted to \$276,128, the deposits to \$519,642, and the discounts to \$1,046,199. The directors of the bank were S. Nordheimer, president; Wm. Alexander, vice-president; Ed. Gurney, Wm. Galbraith, Benj. Lyman, J. L. Playfair, Geo. W. Torrance. The general manager was Mr. H. S. Strathy. An eagerness for expansion was shown by the management of this bank also, and within the first nine months branches had been opened at Simcoe, London, St. Marys, Guelph and Yorkville. There was a remarkable development in the business of the bank during the latter half of 1875. The note issue rose to \$604,000 the deposits to \$1,253,000, and the discounts to \$2,429,000. There was not much expansion during the remainder of the hard times, but from 1879 to 1884 there was an astonishing

development. Subsequent disclosures, however, proved it to have been of a very unsound character. Bad management, among other causes, led to the ultimate disappearance of the bank. The particulars as to this, however, are beyond the scope of the present inquiry.

Turning to the banks organized in the Province of Quebec, we obtain some interesting side lights on the financial methods of the period.

La Banque Jacques Cartier was first chartered in 1860, with an authorized capital of \$1,000,000, \$100,000 of which was to be paid in before beginning business. Among its charter members were L. Beaudry, S. Valois, R. Trudeau, R. A. R. Hubert, C. S. Rodier, Jr., J. B. Beaudry and A. Lapierre. Mr. J. B. Beaudry was the chief founder of the bank and its first president, being succeeded in that position by R. Trudeau. Mr. Honore Côté was the cashier, or general manager.

For some years the bank continued to prosper, but evidences of weakness began to appear in the report of 1868, when the president referred to the increasing failures among the debtors of the bank. Its reserve fund at the time amounted to scarcely ten per cent. of the paid up capital. Still its stock stood well on the market and it presented a very good showing in the Government reports, its assets being represented as more than double its liabilities. In 1871, under the authority of the new Bank Act, it was resolved to increase the authorized capital by another million. During 1872 this extra amount was rapidly subscribed at a premium of five per cent. This was the period when speculation in bank stocks was at its height, and Montreal was the centre of the movement for Canada. The practical outcome, for the Jacques Cartier Bank, was to convert a considerable portion of the deposits, bearing interest at three per cent., into bank stock on which eight per cent. had to be paid. The directors claimed that they might have made greater profits had they been inclined to indulge in speculative business, from which, however, they virtuously refrained. The report of the bank, in 1872, certainly indicated that it was in a very flourishing condition, and the price of its stock reflected the same conviction on the part of the public. At this time, too, the bank was entering upon enlarged premises on Place D'Armes Hill.

Up to the middle of 1873 there was little indication of weakness, yet before the spring of 1875 the bank was in such

distress that it had to obtain assistance from other banks and the Provincial Government. This, however, was evidently not sufficient, for about the middle of June it was matter of public rumour that the bank was unable to meet its engagements. On June 17th the president and general manager resigned and an investigation was expected. It was understood that, notwithstanding its declarations as to speculative dealings, the difficulties of the bank were chiefly due to large advances to the Northern Colonization Railway and other non-commercial enterprises, from which no funds could be withdrawn. On the other hand, the Government, after due warning, had been withdrawing large deposits from the banks to meet extensive obligations. As the immediate result of its difficulties the bank was compelled to suspend. After the situation had been cleared up somewhat, it was considered possible that the bank might resume if the capital were reduced by one half. In the course of their investigation the special committee discovered that the cashier had managed to lose about \$1,200,000. of the bank's capital, as the board claimed, without the knowledge of the directors. The cashier was arrested, first at the instance of the bank, and afterwards of the Dominion Government, for falsifying the accounts and for making fraudulent returns. Some of the directors were threatened with arrest, but the proceedings were dropped. Ultimately the shareholders decided to reduce the existing capital of the bank by fifty per cent. and to cover the losses by the issue of preferred stock. On Sept. 9th it was announced that the bank would resume payment, arrangements having been made with the chief creditors, including the Provincial Government. On Sept. 11th the bank reopened, it being understool that the Dominion Government would give the necessary authority to issue preferred stock, and when the calls on this were made the bank would resume discounting. The act which authorized these changes also enabled the directors to make arrangements for amalgamation with any other bank, subject to the approval of the shareholders. By Oct. 7th the notes of the bank were being accepted at par, but it was having a hard struggle to recover its footing in the midst of a general depression which prevented realization on its securities. In May, 1877, its stock was still as low as 35, and during 1878 things became worse rather than better. It was then resolved to ask for a further reduction of the capital by fifty per cent., and the necessary act was passed in the spring of

1879. An authorized capital of \$2,000,000 was thus ultimately reduced to \$500,000, which, in 1880, was all paid up. In 1879 a proposal to amalgamate with the Banque D'Hochelaga was entertained for a time, but declined in the end. Gradually, with liberal assistance from the Dominion and Provincial Governments, the bank accomplished a slow but steady recovery during the eighties, yet never sought to attain to its former dimensions.

La Banque Nationale was organized in 1859, with its head office in Quebec city, and an authorized capital of \$1,000,000. By 1868 the capital of the bank was all paid up, and it was doing a very safe business, while its stock stood at a premium of six or seven per cent., which was a fair average for that time. In the early seventies the Hon. Eug. Chinic was president and I. Thibaudeau, vice-president. The other members of the board were, Hon. U. S. Tessier, A. Joseph, C. Tetu and P. Valee. In 1871 the bank increased its authorized capital to \$2,900,000, three fourths of the new capital being paid by the end of September 1873. In their report for 1873 the directors were able to announce that after paying a dividend of eight per cent. they had carried \$100,000 to the reserve fund making it \$225,000. Until 1872 the bank had confined its operations to the city of Quebec, but, being largely interested in the lumber trade, in that year it opened a branch in Montreal and another in Ottawa. Up to 1876 the bank presented a very prosperous appearance, its capital being all paid up and the reserve fund increased to \$400,000. The reaction in the lumber trade, however, was naturally very hard on it, and it had apparently to take over some industries in that line, for we find that, in 1878, the bank was accused, before the Department of Finance, of having forfeited its charter by reason of its illegal trading in lumber, square timber and saw logs, in violation of the Bank Act. In 1877 the directors had to report the necessity for devoting \$100,000 of the reserves, in addition to the profits of the year, to cover losses. In 1880, however, it had recovered its lost ground. During the crisis of 1885, it again suffered reverses. which abolished its reserve fund and ultimately led to the reduction of its capital to \$1,200,000. From this reverse it again steadily recovered.

Another bank having its head quarters in the city of Quebec, was the Union Bank of Lower Canada. It was chartered in 1865, with an authorized capital of \$2,00,000, but only \$100,000 of which was required to be paid in before beginning

business. According to *Le Canadien* \$1,000,000 of its stock was subscribed within sixteen days, \$860,000 being taken in Quebec and Montreal. The first meeting of the shareholders was held about the middle of December, when the following directors were elected: C. E. Levey, president; Thos. McGreevy, vice-president; J. C. Simard, E. Paston, S. Lelievre, J. G. Irvine and Col. W Rhodes. Later, Messrs. Paston and Lelievre were replaced by Messrs. Jas. Gibb and Jno Sharples. Mr. P. MacEwen was general manager. Like La Banque Nationale, the Union Bank was chiefly interested in lumber, and its fortunes fluctuated with those of that industry. By 1868 the bank had \$969,150 of paid up capital, \$551,500 of deposits, and \$1,485,000 of discounts. It had, however, the large sum of \$255,321 in balances due to other banks, and only about \$90,000 of note issue. Its rapid expansion is evidenced by the fact that in 1872 its paid up capital had increased to \$1,849,072 with a note circulation of \$1,141,000, deposits to the extent of \$2,318,000, and discounts of \$4,494,000. Its reserve fund, however, was only \$200,000. The bank took over the assets of the Quebec Provident and Savings Bank, which increased its list of depositors. In the interest of its lumbering connections it established branches at Montreal, Ottawa and Three Rivers. In the beginning of 1875 the bank's expansion culminated; thereafter, for several years, its business considerably declined. It recovered somewhat in the early eighties, but fell off again severely in 1884 and 1885, when it lost its reserve fund and was evidently drawing upon both the Dominion and Provincial Governments, in addition to several other banks, for assistance. The following year it was found necessary to reduce its capital to \$1,200,000. It was thus enabled to recover its footing and, later on, to become once more a prosperous institution.

One of the most badly managed of the banking institutions of the period was the Mechanics Bank, a Montreal enterprise which received its charter in 1865. Its authorized capital was the usual one million, one half of which was required to be subscribed and paid in within a specified time, but the remainder at the option of the directors. The system on which this bank professed to do business, was that of confining its operations to the city of Montreal, and therefore maintaining no branches, and also issuing no notes. The latter feature in its policy was declared to be due to the conviction that the paper money of the country was soon to be furnished by the Government alone. In

1869 its paid up capital amounted to \$311,124, and it had another \$200,000 in deposits. The directors at this time were, Walter Shanly, M.P., president; Alex. Molson, vice-president; C. J. Brydges, John Atkinson and Wm. McNaughton.

The banking system of the country having been determined on other lines than expected, the shareholders of the bank, in 1872, sanctioned the issue of \$100,000 in notes, and later the bank opened a few branches. Though the bank was paying dividends of seven and eight per cent. its stock did not seem to be in special favour with the investing public. That the lack of confidence in its stock was not without justification was proved when the tide turned, for the bank immediately showed weakness. It was reported that its business consisted chiefly of note shaving at high rates of interest, which meant poor security; hence when reaction occurred the bank suffered severely. At the annual meeting, in July 1875, Mr. Brydges foreshadowed the probable amalgamation of the Mechanics with the Molson's Bank, but the arrangement was too late. About the middle of September it was known that the bank was in straits and seeking assistance from other banks. On Sept. 20th, its notes were refused, and the following day it was forced to suspend. A preliminary investigation proved that \$100,000, or about one fourth of the bank's capital, had been embezzled. Owing to the reputation of the bank in financial circles, its suspension caused little stir on the money market. There was, however, considerable excitement among the smaller tradesmen and others, who were induced by the name of the institution to entrust it with their funds. At the time of suspension the capital stock paid in amounted to \$456,510, notes in circulation to \$126,462, deposits on current accounts to \$92,421, deposits in savings department to \$136,823 and discounts to \$453,029.

At the general meeting of the shareholders, held on the 18th of November, 1875, the president was still hopeful. A committee was appointed to meet with the directors to consider the future of the bank, which must either be wound up, or started on a new basis. The recommendations of this committee were embodied in three propositions (a) that the capital of the bank be reduced to meet the losses, (b) that \$300,000 of preferred stock be issued, (c) that \$125,000 be borrowed from the Molson's Bank to enable them to go on in the meantime. On these terms the board of directors was reconstructed, Mr. Brydges becoming the new president. The necessary act was

passed, reducing the existing capital to sixty per cent. of its face value, but without altering the liability of the shareholders. Preferential stock, to the extent of \$300,000, was authorized, the preference to continue for five years, with dividends limited to eight per cent. Under these terms the bank once more opened its doors and attempted to get on. However, with a number of legal actions still pending, as to the loss of funds under the previous management, no one cared to subscribe for the new stock. Some \$80,000 was promised by the four directors, but only \$9,000 was subscribed by the shareholders, and nothing from without. In the meantime the courts were dealing with serious charges brought against the previous vice-president, which being substantiated tended to discredit the whole institution and make recovery impossible. In the spring of 1879 the bank was once more compelled to close its doors. From this time on the proceedings of the committees and other meetings held to unravel and liquidate its affairs, were of the most unedifying character, being distinguished by bitter personal recriminations, interspersed with glimpses of a financial management which was alike incompetent and discreditable. In the end the capital was entirely lost, and the creditors received less than sixty per cent of their claims.

A bank which had a very promising start in life but a rather melancholy ending was the Metropolitan Bank, which was chartered in 1871 with the usual capital of one million. At the first meeting of the shareholders, for the purpose of organization, held on June 7th, and of which Hon. Thos. Ryan was chairman, the following directors were elected: Hon. Hy. Starnes, president; M. Cuvillier, vice-president; Hy. Judah, A. Jodoin, M. P. Ryan, S. Waddell and Hy. Hogan. Capt. A. S. Hincks, son of Sir Francis Hincks then Minister of Finance, was appointed cashier or general manager. The bank started on its career with considerable flourish of trumpets, getting into active operation about the end of August. It was commonly reported, once the bank was fairly started, that the Dominion Government divided its favours between the Bank of Montreal and the Metropolitan Bank. The latter certainly enjoyed a larger government deposit, in proportion to its business, than any other Canadian bank. In November it was announced that a branch of the bank was to be opened at Quebec, with Mr. Adolphe P. Caron as manager. The first annual report, presented on July 3rd, 1872, showed the bank to have a paid up

capital of \$636,200. After paying a dividend of eight per cent., it carried \$15,000 to a reserve fund.

As the bank came into existence at the time when stock speculation—which as we have seen, meant chiefly speculation in bank stock—was at its height the management apparently saw an outlet for their funds in loans on the security of bank stocks. At any rate the business was chiefly developed in this line. We find that, in Sept. 1873, the bank had a paid up capital of \$681,100, with notes in circulation of \$148,936, upwards of \$400,000 in deposits from the Dominion and Provincial Governments, and deposits from the general public of over \$2,700,000. But when we turn to consider the investment of these funds we find that only \$400,000 was represented by ordinary discounts, while \$574,775 represented loans secured by bonds, and \$1,922,000 advances secured by bank stock. With such a showing it is not difficult to determine where the bank found itself when the reaction set in and bank stocks, especially those of the more recent and speculative concerns, went rapidly down, several of them never to rise again. Within a year from the statement given, the bank found itself practically crippled, and its condition grew worse with time. In 1876 the directors hurriedly sought an amendment to the charter, authorizing the bank to amalgamate with some other institution, and also to cancel such of its own shares as had been forfeited to it in settlement of obligations. As, however, the proposal had not been submitted to the shareholders, Parliament declined to receive the petition. Later in the year the shareholders decided to wind up the affairs of the bank. In 1877 an act was passed giving them authority to appoint liquidators for this purpose, under certain prescribed conditions. Authority was also given to dispose of the assets en bloc, if the shareholders approved. At a meeting of the shareholders, on June 4th, Messrs. Robert Moat, H. A. Budden and Hon. James Ferrier were appointed liquidators. Thus did this bright financial butterfly live its brief day and fall a victim to the fascination of the speculative candle.

Just one year younger than the Bank of Montreal, the Quebec Bank still pursued the even tenor of its way, a solid, wisely managed institution, typical of the soundest traditions of Canadian finance. From its offices had graduated some of the best of the managers of the new banks established at this period, notably those of the Dominion Bank and the Bank of Hamilton.

In 1869 it had an authorized capital of \$3,000,000, of which \$1,478,800 was paid up. Its business was chiefly connected, as were all Quebec financial interests, with the lumber trade. It paid dividends of seven and eight per cent. Its stock, never in itself a speculative feature, maintained a fair average price. It did not, of course, escape the influence of the speculative movement in 1871 and 1872, and rose as high as 127 in May 1871. In 1869 the bank had a note circulation of \$596,168, with deposits of \$1,454,922, and discounts of \$3,030,099. Death had removed the head of the bank in the person of David D. Young, who, as a director and afterwards as president, had wisely supervised the bank's affairs. His place was taken by the vice-president, James G. Ross, another pillar of Quebec finance. The other directors were: His Excellency Sir N. F. Belleau, Wm. Whitall, who succeeded Mr. Ross as vice-president, Henry Fry, J. H. Dunn, R. H. Smith and A. F. A. Knight. Mr. James Stevenson, so long identified with the interests of the bank, was its able and accomplished general manager.

Notwithstanding the active competition which was introduced by the Union Bank and La Banque Nationale, the Quebec Bank, not only held its own but made very substantial progress. In 1873 the paid up capital had increased to \$1,930,000, and the reserve to \$275,000. The notes in circulation amounted to \$1,174,371, deposits \$2,750,033, and discounts \$5,213,992. Its business continuing to expand the bank increased its subscribed capital to \$2,500,000, which was soon paid up. The soundness alike of the business and the management of the bank, was attested by the way in which it came through the ordeals of the depression of the seventies and the crises of 1884-85, which latter was so severe on its rivals in Quebec city. Though dividends were reduced somewhat, there was little other evidence that the bank suffered particularly during those trying times.

Several other banks were established during this period but as the most important features of their history belong to more recent times they have not been taken up.

ADAM SHORTT.



J. J. Brown

OBITUARY.

THEODORE GEORGE BROUGH.

The news of the untimely death in England, on the 2nd May last, of Mr. T. G. Brough, came as a great shock to his many friends.

Mr. Brough was a son of the late Secker Brough, County Judge of Huron. He was born in 1853, educated by private tuition in Goderich, and afterwards attended the Model School at Toronto. Upon the completion of his studies he entered the office of Messrs. W. B. Hunter & Co., wholesale merchants of New York, in whose service he remained for four years, leaving their employ to join the St. Lawrence Bank in Toronto. In March, 1875, Mr. Brough became a clerk in the Dominion Bank. Ten years later his energy and ability obtained for him the managership of the Market Branch, Toronto. In November, 1892, he was appointed inspector. It is not easy to discharge the duties of a bank inspector and at the same time retain the affection of fellow workers, of whose character and ability the inspector is frequently called upon to express opinions. But Mr. Brough is admitted to have been a model inspector, and yet one of the most popular officials ever in the service of the Dominion Bank. In June, 1895, the deceased gentleman received further promotion, assuming the management of the Toronto branch. In November, 1899, upon the death of Mr. Gamble, the chief gift in the possession of the bank he had served so faithfully and well was offered to Mr. Brough, and he became general manager.

The banking associates of Mr. Brough speak of him in the most affectionate terms. He was a man of quick judgment whose opinions almost invariably proved sound. He fully deserved the confidence reposed in him by the able men who represent the shareholders of the Dominion Bank. In private life he was of a retiring disposition, reserved but gracious in manner, and of a most modest demeanour. He was greatly beloved by his intimate friends as a man of kindly feeling and generous impulse. The sympathy of the banking community is extended through the *Journal* to the widow and children, to whom his death at such an early age must have presented itself as an incredible and unexpected event.

THE BALANCE OF TRADE.

ONE feature in the record of the foreign trade of Canada in the last few years has been pointed out in many of our newspapers as a sign of an unhealthy state of affairs, namely; the re-appearance of an excess of imports over exports. The existence of such a relation was common enough formerly. Only once in the first twenty-seven years after confederation was the excess in the contrary direction, namely in 1879-80. The year 1894-5 was the first of a series of four years in each of which exports exceeded imports. After but a single year's interval, this relation was resumed for two years longer. Indeed, if we consider the ordinary merchandise trade only, omitting the consideration of coin and bullion, a third year might be added to these two. A point of some importance for our consideration is whether the return to the relation between imports and exports which was usual till within the last ten years is a sign of favourable or unfavourable conditions in the Dominion, or whether it has any certain interpretation as an indication of the material welfare of our people.

In the first place, it is important to note that the imports into Canada are valued for the purpose of assessing the customs duties at the values which they have in the countries of origin. Now, if we put aside, for the moment, the question of how much of the transportation of these goods from the countries from which they come, and of our own products to the countries to which they are sent, may be done by Canadians, we can readily see that the custom house figures do not represent the values for which payment must be made. The value of merchandise received by Canada, and for which payment is needed, is the value on arrival in Canada, not its value as sold in some distant market. If we wish to estimate the real balance due, in whichever sense due, whether to us or by us, on account of our foreign trade in merchandise, the values which call for consideration are, in the case of imports the values on arrival in Canada, in the case of exports the values on leaving Canada. To the extent to which Canadians perform the service of carrying these goods, either from distant places to

Canada, or from Canada to the countries to which our products are sold, we may claim to enter, along with our exports, the value of such transportation services, as a means of balancing the payment due for imported merchandise. When comparing the apparent balances of trade for different countries, the difference in the mode of stating the items, especially in the matter here in question, is of no small importance. Were the imports of the United Kingdom valued in the same fashion as those of Canada or the United States, the so-called 'unfavourable' balance of trade would be stated in very much smaller figures. As an especially striking example of this consider the records of the movement of wheat between the United States and Great Britain. To avoid the errors which may arise in a comparison of single years, through differences between the amounts which have already been exported from the one country at the date to which the account is made up, but not yet received in the other, we take a longer period, so that the relative importance of these differences is reduced to a small amount. The period selected for comparison is the four calendar years 1899 to 1902 inclusive. The great price disturbances of the year 1898 render it undesirable to include that year, while the decrease in the export trade in wheat from the United States since the close of 1902 suggests that unusual conditions might influence the figures for more recent years. The years selected should afford a fair example of what is found under ordinary conditions of trade. In these four years, the exports of wheat, as grain, from the United States to Great Britain averaged 71 millions of bushels per year. The recorded amount received in the United Kingdom from the United States, in the same period, averaged 70 millions of bushels, reducing the return, which is given in hundred-weights, to bushels at the rate of 60 lbs. to a bushel. The average value shewn in the United States accounts is a little less than 72½ cents per bushel. The average value shewn in the British record is a trifle over 88 cents per bushel. The difference in this one item, between the official returns of the goods as exports and as imports, exceeds 40 million dollars, or 10 million dollars annually, and, as seen from the above figures, the valuation as imports is over 20 per cent higher than the valuation as exports. In the case in question, so much of the difference as corresponds to the cost of carrying the grain from America to British ports is due in the main to British citizens, since the ships which carry the grain are mainly British. But, so far as the point under

consideration is concerned, that does not destroy the force of the illustration, but rather the contrary. The mode of valuing these imports which is followed in Great Britain is one which states them at higher figures than would be shewn if the basis of valuation were similar to that of Canada or the United States. The British accounts profess to shew what is the value of imports as received at British ports. Our accounts, and those of the United States, profess to shew what is the value of our imports before they leave the countries from which they are obtained. A direct comparison of accounts based on such divergent presuppositions cannot lead to sound conclusions unless the differences in the facts which the accounts profess to represent be kept clearly in mind. If the extent of our own mercantile marine were such that its services were just equivalent to the conveyance of all our imports from the places at which they have the values stated in our official documents to our own ports, the balance of the amount due to foreigners in respect of merchandise imported and exported would be correctly represented by the balance of imports over exports, or vice versa, as shewn in our accounts. It certainly seems easier to view the matter from the standpoint supposed to be represented in the British accounts. These profess to state imports at their value on arrival in the United Kingdom, and exports at their value on leaving the country. The earnings of the mercantile marine, whether in the conveyance of goods to or from British ports, or when engaged in work between ports neither of which is in the British Isles, is a matter for separate estimate.

In reference to the question whether the earnings of the Canadian mercantile marine are more or less than sufficient to cover the difference between the value of our imports as shewn in the custom-house figures and their value on arrival in Canada, two facts bearing on the question may be mentioned. The first is that the tonnage of Canadian sea-going vessels entered and cleared in Canadian ports is in the near neighborhood of one-eighth of the entire entrances and clearances of sea-going vessels in our ports. If this were a safe basis of calculation, one might say that the carrying services of Canadian vessels were the equivalent of what would be needed to convey about the fourth part of those imports arriving from over-sea, leaving the conveyance of the remaining three-fourths to non-Canadian vessels. In view of the larger percentage of the import than of the

export trade which is conducted with the United States, the proportion may well be in excess of one-fourth. This qualification of the apparent meaning of the tonnage figures involves the second point, namely that the differences between the value in the country of origin and the value in Canada are likely to be small when that country is contiguous to our own. As nearly 60 per cent. of our imports are received from the United States, this reduces the importance of the differences of value under consideration very considerably. Even so, however, it seems probable that, had our imports been valued as on arrival in Canada, the apparent so-called favourable balance of trade in 1894-5 and following years would have been reduced to insignificance, and that the inclusion of the earnings of our mercantile marine with the exports would not have prevented that result.

In comparison, however, with that recent period, there is hardly room for questioning the growth in the excess of imports over exports in the last few years, or the conversion of a balance in the other direction into the 'unfavourable' balance recorded in the latest returns. The significance of the record, admitting that it means that we are receiving from abroad year by year merchandise exceeding in value what we export, is the point needing consideration. Does it indicate prosperity or the opposite? If we examine the grouping of the various countries according to the side on which their foreign merchandise trade shews an excess we find not only Great Britain, but every European country, except Russia, Austria-Hungary, Bulgaria, Servia and Roumania, shews an excess of imports. The preliminary figures of French trade for 1905 shew a small excess of exports for the first time in many years. Outside Europe, Japan and China shew imports greater than exports, while not only the United States and Mexico, but also the various states of South America report exports in excess of imports. In the British Empire, India, Australia, New Zealand, Newfoundland and British Guiana show exports in excess, while Jamaica and Ceylon are found now on the one side, now on the other, the West Indian Islands taken as a whole having, generally, an excess of imports. A like excess is found in the returns of Natal, Mauritius and the Straits Settlements. The Cape of Good Hope has had a varying record, but in 1904 the balance once more turned to the side of an excess of exports.

The recital of the countries found in each of the two classes
(c)

is certainly not decisive as to the significance of an excess of the one kind or the other. The United States is unquestionably prosperous and progressive, but is not Germany so likewise? The economic condition of Russia is not one we are inclined to envy, but Turkey, whose imports are in excess of her exports, thus contrasting with Russia, is hardly in a more enviable economic condition. The direction of the balance of trade cannot alone, if at all, determine the welfare of a country. Even if the figures were all prepared in the same manner, conclusions would not be certain. But when some of them represent the values declared by merchants, some sworn declarations, some declarations made in more or less careless fashion, or even subject to suspicion of deliberate mis-statement; when some countries make up their figures from prices of goods determined by official agencies and not necessarily representing accurately the values of particular consignments; when, in the last-named case, the valuations are sometimes made on the basis of prices which are revised frequently, and kept up-to-date, while sometimes many years elapse during when no revision is made, and official values become ludicrously out of touch with the facts they are supposed to represent; when these and other differences exist between the methods of preparing the records, to use them for the purpose of tracing the relative progress of different countries in general welfare,—which is only indirectly connected with the growth of foreign trade,—is clearly unwise.

In our own case, the swing of the apparent balance of trade from the side generally called 'favourable' to the side generally designated 'unfavourable' in the last few years ought certainly not to be interpreted as implying economic retrogression. Has not Canada a vast territory, and resources only gradually being revealed, to develop? If it is to be developed, the material means of development must be supplied either from within the Dominion or from outside. If we possess facilities for the production, on favourable terms, of the necessary means of development on our own soil, we may dispense with the supply from outside. But, if we need this equipment at once, we may choose between employing the labour and capital which are ours in the direct production of the machinery, etc., which we need, or turning our energies to the production of timber, dairy products, grain and cattle for export, procuring the various products needed for developing these and other industries with the price

for which the exports are sold. If we are determined to be self-dependent, we need only produce the food required by our own population, using whatever labour is able to be spared from these occupations in the production of machinery, buildings, clothing, etc., for our direct needs and for exploiting undeveloped resources. Exports and imports might be both largely reduced, and if the energies of our people were able to be employed with equal advantage in producing directly for our own needs as in producing for export we might be as well supplied and no less prosperous.

But we may be able to employ advantageously, not only all the equipment for exploiting our natural resources which our people can produce, or can purchase with the price of the other things which they prefer to produce, but more, and much more. Just as a manufacturer may need more funds to develop his business than he himself owns, so with the aggregate of the population of a country. The manufacturer borrows the means of extending his operations, and expects to make enough profit in doing so to repay the loan. So, too, with the country as a whole. At the stage at which Canada now finds herself, remunerative use can be found, not merely for all the equipment we have or can produce for ourselves, or pay for with the products of our labour, but for more. This additional equipment must come from outside. We do not need merely to borrow money, or procure credit, we need the material resources which the money or credit can command, and which exist outside our own territory. While we are in the stage of using a greater amount of equipment in developing the country's resources than can be produced by our own efforts, our imports must exceed our exports. That they should do so is not merely necessary and natural, but a sign that the possessors of wealth in other countries are willing to devote that wealth to the development of Canadian resources, waiting for a return till, by the use of their wealth, the development has been carried forward satisfactorily. If any artificial means could, at this time, check the growth of an excess of imports over exports, it would at the same time effectually retard that development to which every patriotic Canadian looks forward with confidence and satisfaction, and in the present signs of which he rejoices.

At a later stage of development, the funds borrowed will be repaid, with interest. At that time we may hope to be able to

procure much from Canadian industry which, at present, has to be obtained from outside. We shall, as we hope, have a surplus of our products, beyond what we need for our own consumption, available for export. That export will afford the means, both of procuring whatever our native industry and resources are unable to supply, and to meet interest payments on what is now being borrowed and to repay the principal as well. When all that has been borrowed is repaid, what then? At that date our exports may be used to procure those necessities and luxuries which our own soil cannot furnish. If we have more to export than suffices to pay for the imports we then need, we may supply the means of developing industries in other lands in the same way as we now procure from other lands the means of developing our own. But here one point needs attention. Why should we invest abroad these surplus resources? If there remain any directions of development at home which promise better returns than those found abroad, the sending of our funds abroad may leave them undeveloped, unless foreign funds come here at the same time in equivalent amount.

Assume, further, that we have proceeded so far as to make extensive investments abroad, and have paid off all the funds borrowed from abroad. How can we receive the returns on those investments? Must it not be in the shape of imports unbalanced by exports in corresponding amount? If, at that time, we continue to export in excess of our imports, either a continuous increase of investment abroad must be in progress, or a waste of the funds sent abroad must be going on. An indefinite continuance of the export surplus is, in fact, hardly conceivable if we suppose that our fellow citizens act, on the whole, rationally.

Other influences than those above referred to affect the balance of trade. But those whose importance is greatest have been selected for consideration. It is clear that a country may have an excess of imports because it is borrowing from abroad. Such borrowing may be the result of unfavourable conditions, or it may be the accompaniment of growing prosperity, and a means of increasing that prosperity and hastening its growth. A country may have an excess of imports because it has the position of a capitalist, with great investments abroad, the rich returns on which supplement the produce of its own industry on its own soil. The capitalist may expend as income more than the annual revenue of his investments and thus progressively

impoverish himself. A like position is possible for the aggregate we know as a nation. An excess of imports, in such a case, would unquestionably be an 'unfavourable' sign, just as an excess merely representing the regular returns of foreign investment, or a part of them, may be favourable. By itself, the direction of the balance of trade has no certain interpretation. It must be read in the light of the other conditions of the case. The prosperity of the country depends on the profitable employment of its resources in labour and material and the endowment of nature in the shape of soil and climate and mineral wealth. The wise application of labour and capital to natural resources supplies the means of livelihood in greater or less abundance according to the richness of nature's gifts, the intelligence with which they are exploited, and the diligence with which men apply themselves to their labours. The best lines of development may be such as involve large exchanges with other countries, or such as render a large foreign trade unnecessary. But, whether with or without a large foreign trade, whether with imports exceeding exports or the reverse, the welfare of the country is dependent on itself and its people. Intelligence and diligence may overcome natural obstacles to prosperity or utilize natural facilities for advancing the general welfare. It is not by its foreign trade that that welfare must be measured, and, in the main, not on it that it depends.

A. W. FLUX.

LECTURES ON THE BANK ACT.

No. II.

ORGANIZATION AND INTERNAL REGULATIONS OF BANKS.

Copyright. 16 March, 1906.

A. RIVES-HALL.

HAVING taken a general but necessarily cursory view of the nature of banking, the relations of bank and customer, we now proceed to a study of the Bank Act itself which is the statutory authority for the existence of our banks, the fountain of their rights and obligations, and on its interpretation depends the ultimate decision of all questions that may arise.

The present Act came into force on the 1st. July 1891. but was revised, and the Bank Act Amendment Act was passed in 1900, and came into force on the 1st. July 1901. By the Amendment Act the charters of all banks were extended until 1st. July 1911.

The right of the Dominion Parliament to pass the Act of 1891 was challenged as an interference with the powers conferred on the Provincial Legislatures by section 92 of the B. N. A. Act, especially as an invasion of the domain of "Property and Civil Rights."

This section of the Act that embodies the constitution of Canada, provides that, "In each province that Legislature may exclusively make laws in relation to matters coming within the classes of subjects hereinafter enumerated," and here follows a long list, the 13th. item of which is "Property and Civil Rights in the province."

The preceding section of the B. N. A. Act provides however that:—

Sec. 91. "It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make laws for the peace, order and good Government of Canada in relation to all matters not coming within the classes of subjects by this Act assigned exclusively to the Legislatures of the

Provinces; and for greater certainty but not so as to restrict the generality of the foregoing terms of this section, it is hereby declared, that (notwithstanding anything in this Act) the exclusive Legislative authority of the Parliament of Canada extends to all matters coming within the classes of subjects hereinafter enumerated," and here follows another list the 15th. item of which is:

"Banking, Incorporation of Banks, and the Issue of Paper Money."

The dispute, naturally in view of these precise terms, did not arise over the right of the Federal Parliament to incorporate banks, but in the leading case of *Tennant vs. Union Bank* (1894 A. C. 31) over the provisions with regard to warehouse receipts which were claimed to be invalid as being in conflict with the Mercantile Amendment Act of Ont. (R. S. O. c. 122) on the same subject. That statute not only recognizes the negotiability of warehouse receipts by custodiers who are not the owners of the goods; it extends the privilege to receipts by one who is both owner and custodian, but that only in cases where the grantor of the receipt is, from the nature of his trade or calling, a custodian for others as well as himself, and therefore in a position to give receipts to third parties. The receipts in question in that case, did not comply with requirements of the Act, because it was neither averred nor proved that the firm in the course of their business had the custody of any goods except their own.

In the Bank Act then in force, R. S. C. c. 120, it was provided that the person granting a warehouse receipt might be the owner of the goods covered by it. It will be noticed when we come to discuss that important Section 73 of the present Act that the term "warehouse receipt" is now applied only where the person granting it is not the owner of the goods; but under sec. 74 owners may receive similar advances.

In the Bank Act then in force, R. S. C. c. 120, it was provided in the *Tennant* case that the Federal Act was *ultra vires*, and the security held by the bank invalid; but the Privy Council clearly laid down the doctrine that inasmuch as sec. 91 of the B. N. A. Act expressly declares that the exclusive legislative authority of the Parliament of Canada shall extend to all matters coming within the enumerated classes, this is a plain indication that the legislation of that Parliament, so long as it strictly relates to these matters is to be of paramount authority, even

though it trenches upon matters assigned to the local legislatures by sec. 92. They further laid down the doctrine that the legislative authority conferred by the words "Banking, Incorporation of Banks and the Issue of Paper Money" is not confined to the mere constitution of corporate bodies with the privilege of carrying on the business of bankers; that it extends to the issue of paper currency, which necessarily means the creation of a species of personal property carrying with it rights and privileges, which the law of the province does not and cannot attach to it, and that it also comprehends "Banking" an expression wide enough to embrace every transaction coming within the legitimate business of a banker.

The present Bank Act is, then, the supreme authority over all our Incorporated Banks, and such as may be hereafter incorporated with the exception of the Bank of B. N. A. and the Bank of British Columbia, which operate under Imperial Charters, and are of course not subject to the provisions of our law with regard to Incorporation and Organization, Internal Regulations, Capital Stock, and Annual Statements and Inspection. These Banks are, however, governed by the other sections of the Act that deal with the business and powers of banks, note issue etc.

Incorporation:— We must not dwell at any length on the formalities to be observed in the incorporation of a new bank; this is not a matter of every day occurrence, and is undertaken by men of ripe experience under the advice and guidance of their equally experienced solicitors. But I may indicate in a few words what are the general requirements.

The Capital Stock of any proposed bank must be not less than \$500,000 in shares of \$100. and before the subscribers can meet to elect directors this entire sum must be subscribed and at least \$250,000 deposited with the Minister of Finance and Receiver General. Even after this organization meeting has been legally held the bank cannot commence business until it has obtained from the Treasury Board within one year from incorporation a certificate to the effect that all the requirements of the Act have been complied with. On the issue of the certificate the Minister of Finance and Receiver General returns to the bank \$245,000 of the deposit, keeping the balance of \$5000, as security against the note issue until the annual adjustment, when the amount is increased or decreased to a sum equal to 5 percent of the average amount of its notes in circulation.

It is to be noted that the Act makes no provision for enforcing payment of the subscriptions to the Capital Stock, by the provisional directors, or even any express provision for excluding subscribers in default from taking part in the organization of the bank. Until this is remedied by legislation it would be well to provide for it in the terms of subscription in the stock books.

Internal Regulations:—A bank is a miniature republic without the fallacious shibboleth that most republics worship as a divine revelation universal suffrage. It is a government of the people, and by the people, but it does not give to the holder of one share the same power as the holder of one hundred shares. It will not do to carry the political analogy too far, for though it is but right and just in a company that a shareholder should vote according to the number of his shares, a similar policy in politics would degenerate a republic into a plutocracy, an evil as bad in one way as universal suffrage is in another. As in a republic, the ultimate power and authority of the Company rests with the shareholders, but their numbers, their various avocation their distant homes, preclude the possibility of their watching and directing every step in their common business, and they can assert this authority only at regular intervals when they elect their representatives. The directors arrange the details and the execution of their regulations.

Sec. 18. The shareholders of the bank (or in the case of La Banque du Peuple, the principal partners or members of the corporation thereof) may regulate, by by-law, the following matters incident to the management and administration of the affairs of the bank, that is to say: The day upon which the annual general meeting of the shareholders for the election of directors shall be held; the record to be kept of proxies, must be produced and recorded prior to a meeting in order to entitle the holder to vote thereon; the number of the directors which shall not be less than ten, and the quorum thereof, which shall not be less than three; their qualification, subject to the provisions hereinafter made; the method of filling vacancies in the board of directors whenever the same occur during each year, and the time and proceedings for the election of directors, either jointly or severally, or to any one firm or person, or to it; the remuneration of the president, vice-president and other directors and the amount of discounts or loans which may be made

to directors either jointly or severally, or to any one firm or person, or to any shareholder, or to corporations.

2. The shareholders may authorize the directors to establish guarantee and pension funds for the officers and employees of the bank and their families, and to contribute thereto out of the funds of the bank.

3. Until it is otherwise prescribed by by-law under this section; the by-laws of the bank on any matter which may be regulated by by-law under this section shall remain in force, except as to any provision fixing the qualification of directors at an amount less than that prescribed by this Act; and no person shall be elected to continue to be director unless he holds stock paid up to the amount required by this Act, or such greater amount as is required by any by-law in that behalf;

The annual meeting, at which the President usually presides, although the shareholders have a right to elect a presiding officer, is held at the head office of the bank, at an hour fixed by the directors, of which public notice must be given for at least four weeks in a newspaper published at the place where the head office is situated. At this annual meeting the directors are elected, and a detailed annual statement of the bank laid before the shareholders.

Proxies:— The by-law may require proxies to have been produced 30 or any less number of days before a meeting, but not more than 30 days. In the absence of a by-law they might be produced up to the time of the meeting, or even up to the time of voting. Only proxies that comply with all the provisions of the Act should be recorded. Thus the proxy must not be two years old; both the shareholder giving the proxy and the one to whom it is given must have held their stock for at least thirty days; neither of them can be a manager, cashier, clerk or other subordinate officer of the bank; and neither must be in arrears for any call on the stock being voted. A corporation holding shares in a bank may give proxy.

In drawing these shareholders by-laws although no particular formality is required, as they are usually intended for a permanency and not for a temporary use, care should be made to draw them in statutory form. They should be consistent with the Act of Incorporation and with the general law, and they should be certain, free from ambiguity, general in application, reasonable and positive in their terms.

The shareholders have also the sole right to increase or reduce the capital stock.

Sec. 26. The capital stock of the bank may be increased from time to time, by such percentage or by such amount, as is determined upon by by-law passed by the shareholders, at the annual general meeting, or at any special meeting called for the purpose; provided always that no such by-law shall come into operation, or be of any force or effect, unless and until a certificate approving thereof has been issued by the Treasury Board.

It rests with the shareholders also to authorize the directors to establish guarantee and pension funds for the officers and employees of the bank and their families, and to contribute thereto out of the funds of the bank.

The Directors:—The directors are the brains, judgment and discretion of the bank, they can delegate the execution of their decisions, and a limited discretion in small matters, but not discretion in weighty matters. They must show a reasonable capacity for their position, must exercise discretion and industry in good faith, and must obey the directions of the bank's charter and the provisions of organic law. They are trustees for the public, the depositors and the shareholders, and it is their duty not to acquire any interest adverse to that of the bank nor take any profit from their employment, beyond of course the remuneration voted and allowed them by the shareholders.

Section nineteen provides for this qualification and election.

Sec. 19. The stock, property, affairs and concerns of the bank shall be managed by a board of directors, who shall be elected annually in manner hereinafter provided, and shall be eligible for re-election.

2. Each director shall hold capital stock of the bank as follows:— When the paid-up stock is one million dollars or less, each director shall hold stock on which not less than three thousand dollars has been paid up; when the paid-up capital stock is over one million dollars and does not exceed three million dollars, each director shall hold stock on which not less than four thousand dollars has been paid up; and when the paid up capital stock exceeds three million dollars, each director shall hold stock on which not less than five thousand dollars has been paid up.

3. A majority of the directors shall be natural born or naturalized subjects of His Majesty.

4. The directors shall be elected by the shareholders on such day in each year as is appointed by the charter or by any by-law of the bank at such time of the day as the directors, appoint; and public notice thereof shall be given by the directors, by publishing the same for at least four weeks previous to the time of holding such election, in a newspaper published at the place where the said head office is situate.

It will be noticed that the Bank Act, unlike The Companies Act 1902 (§ 63) does not require that the Director should own the stock on which he qualifies. "*absolutely in his own right.*" I shall not attempt to explain this difference, but confine myself to pointing out that the consequence of this difference is that in the case of a bank director, it will be sufficient if he is the registered owner in the books of the bank of the necessary amount of stock, and while being the registered, but not beneficial, owner of such shares, they cannot be charged for payment of a judgment debt incurred by the director (Cooper & Griffin 1892 Q. 13.740). This was held in an English case, but we hope that our directors are as they seem—men of such means and solvability that they will not allow any debts to be incurred.

The Act provides for all contingencies such as a tie at the elections, the filling of vacancies, failure of election, etc., but it is unnecessary, and we have little time to dwell on these minor matters, but must pass on to consider the *Powers of the directors*:

Section 19 provides that "the stock, property, affairs and concerns of the bank shall be managed by the Board of Directors," which as already set forth must be composed of such number not less than 5 or more than 10 as the shareholders may determine.

Their specified duties are:

To make by-laws	§22
To appoint officers, clerks, etc., and to require them to give bonds..	§23
To call special meetings of the shareholders	§24
To allot stock.....	§27
To regulate transfers	§29
To make calls	§31
To make annual statements.....	§45

To declare dividends.....	§47
To issue notes.....	§51
To open branches.....	§64
To make monthly returns to the Minister of Finance.....	§85

The directors are the agents of the bank, and as such, although they may be directors only *de facto* and not *de jure*, their acts will bind the bank towards third parties, although they may have been irregularly or illegally elected.

In like manner third parties in good faith, are not affected by mere irregularities on the part of the directors or officers of the bank. For instance, where the quorum of directors was three, and only two were present and authorized the secretary to affix the seal to a mortgage deed, it was held not necessary to enquire whether the secretary was duly authorized, and that it must be taken that the mortgage was duly executed (1895 I Ch. 325).

The bank is liable also for the torts of its directors, committed by them when acting within the scope of their authority, even in the case of fraud and forgery, but the directors in such case must be acting on behalf of the bank and not merely to further their private ends.

The directors are first of all given authority to make by-laws, on such matters as are not exclusively within the province of the shareholders themselves, for of course they cannot change any rules laid down by their principals. For instance, while directors of ordinary companies may fix their own fees, directors of banking companies are dependent for their remuneration upon the generosity of the shareholders who alone have power to make by-laws on this subject.

Sec. 22. The directors may make by-laws and regulations (not repugnant to the provisions of this Act or the laws of Canada) touching the management and disposition of the stock, property, affairs and concerns of the bank, and touching the duties and conduct of the officers, clerks and servants employed therein, and all such other matters as appertain to the business of a bank.

The practical knowledge which you gentlemen have of banking, your frequent intercourse with your directors, under I hope the most pleasant auspices on all occasions, will supply you with abundant examples of by-laws framed under the authority of this section.

As you know of course the directors appoint the officers, clerks and servants of the bank, and decide on their salaries.

These officials become then substitutes in the place of the directors themselves as agents of the shareholders with power to bind the bank, on all matters that fall within the scope of their duties. Parties dealing with them are not affected by any irregularity in their appointment, or bound by any private directions given to them, or special limitations imposed upon them by by-law or otherwise. It is of course essential that their duties and the scope of their authority be clearly set down by the directors, but customers of the bank, and other third parties may assume that they enjoy the same powers as are usually exercised by such officers respectively.

In a Nova Scotia case where an acceptance was endorsed to a bank and the cashier sued on it in his own name — it was held to be a fair inference that this was payment to the bank.

In spite of their power to appoint subordinate officers and clerks directors cannot divest themselves of their personal responsibility. While they are at liberty to employ such assistants as may be required to carry on the business of the bank, they are nevertheless responsible for the fault and misconduct of the employees, unless the injurious acts complained of are such as could not have been prevented by the exercise of reasonable diligence on their part.

Sec. 23. The directors may appoint as many officers, clerks and servants for carrying on the business of the bank, and with such salaries and allowances, as they consider necessary, and they may also appoint a director or directors for any branch of the bank.

2. Before permitting any cashier, officer, clerk or servant of the bank to enter upon the duties of his office, the directors shall require him to give bond, guarantee, or other security to the satisfaction of the directors, for the due and faithful performance of his duties.

In the matter of guarantees still another part of our general law must be considered, that of suretyship.

C. C. 1929. Suretyship is the act by which one person, called the surety, engages to fulfil the obligation of another in case of its non-fulfilment by the latter.

This contract is not presumed, it must be expressed and to satisfy our laws of proof it must be in writing.

This business is almost exclusively assumed at the present time by Guarantee Companies, and forms a very important branch of the law of insurance.

As such contracts are interpreted strictly it is of the utmost importance that the form of application should state exactly the duties that will devolve upon the employee, and the bank must see that the scope of his duties is not enlarged without a proper extension of the guarantee.

In a recent case of the School Commissioner of St. Edouard vs. the Employers Liability Company the surety was discharged because the conditions of the application had not been carried out. In that application the School Commissioners set out the duties of the Secretary Treasurer, and declared that his accounts would be audited each year. When the case came to trial however it was discovered that the audit had been of such a desultory character that deficits to the sum of \$700 had been allowed to accumulate before the secretary finally abandoned his post. Such carelessness of course could not arise in the banking business, but the case serves to point the moral, that the conditions of the application are a part of the contract and must be strictly observed.

So if the mode of payment of the employee is recited in the bond, and this is changed, it may operate to discharge the surety.

But on the other hand where the bond said nothing about the salary of the employee, the surety could not set up as a defence a change in the mode of his remuneration.

And a bond given for the good conduct of an employee described as "a clerk" does not cover defaults after he became manager, it being conclusively shown that he ceased to be a clerk when he became manager. Reduction of salary would have the same effect.

If however the bond should be given for faithful service "as clerk or in any other capacity whatsoever" the surety could not plead that the clerk had been appointed a teller, whereby the risk was increased.

The Act you will notice requires that the guarantee must be for both the *due* and *faithful* performance of duties. So if the bond be properly drawn — and that it is, must be the directors care — the surety, whether a company or an individual, will be liable for the employees negligence as well as his dishonesty.

Where an employee left a large sum of money in open bags in his room while he went to lunch, and during his absence the

room was broken into and the money stolen, the company that had guaranteed that he should diligently and faithfully discharge his duties was held liable.

In another case, the cashier of a bank removed bundles of notes from the bank premises to his residence, for the purpose of signing them, but it appeared that he brought them all back, and subsequently, in his office in the bank, he put a number of \$5 notes in the bundles instead of \$10 notes, and thus defrauded the bank of \$8,140.

Held: In intrusting the notes to the cashier to be signed there was no negligence on the part of the bank involving a violation of the terms of the contract, and the loss was one caused by "fraud and dishonesty amounting to embezzlement" on the part of the employee, and came under the guarantee given by the policy.

The same employee shortly before his flight from the country, caused his own cheques to the amount of \$15,574 to be certified by the ledger-keeper of the bank, although he, the cashier, had no funds there.

This act, although technically speaking, not constituting the crime of embezzlement, was "fraud and dishonesty amounting to embezzlement" on the part of the cashier, and came under the guarantee of the policy. These words in the policy have to be taken in their ordinary or vulgar sense, as otherwise the words "fraud or dishonesty" would be without effect.

In 1881, G., having business transactions with the Exchange Bank, agreed with G., president and manager of the bank, that in lieu of further advances the bank would accept his cheque, but made payable at a future date. On the 29th October, 1881, G. drew a cheque on the Exchange Bank, and after having it accepted as follows: "Good on February 19th. 1882, T. Craig, Pres." got the cheque discounted by the People's Bank and deposited the proceeds to his credit in the Exchange Bank and paid. Thereafter another cheque for the same amount was accepted in the same way and discounted by the People's Bank on the 7th September, 1883. At the time of the suspension of payment by the Exchange Bank the People's Bank had in its possession four cheques signed by G. and accepted by T. Craig, President of the Exchange Bank, which were subsequently presented for payment on the dates when they were payable, and duly protested, and also after the three days of grace.

The total amount of these cheques was \$66,080.64, and one of them, viz., the one dated 7th. September 1883, for \$31,000 was a renewal of the cheque the proceeds of which had been paid to the credit of G. in the Exchange Bank. G. was manager as well as president of the Exchange Bank.

On an action brought by the People's Bank against the Exchange Bank, for the recovery of the sum of \$66,020.74 based on the four cheques in question, the Exchange Bank pleaded *inter alia* that C. had not acted within the scope of his duties and within the limits of his powers, and that the bank had never authorized or ratified his acceptance of G's cheques.

Held: Affirming the judgement of the Court of Queen's Bench (Strong, Taschereau and Guyme. J. J. dissenting) that under the circumstances the Exchange Bank was liable for the acceptance by their president and manager of G's cheques discounted by the People's Bank in good faith and in the course of business.

Cheques fraudulently initialed by the manager of a bank and for which the drawer has given in exchange to the manager certain securities which the bank returns, cannot be repudiated by the bank, when the cheques are held by a bona-fide holder for value.

The next power of the directors is the calling of special meetings, which may also be done by 25 shareholders who are together proprietors of at least one tenth of the capital stock.

Sec. 27. Any of the original unsubscribed capital stock, or the increased stock of the bank, shall, when the directors so determine, be allotted by the shareholders of the bank *pro rata*, and at such rate as is fixed by the directors, which will make the premium (if any) paid or payable on such stock so allotted exceed the percentage which the reserve fund of the bank then bears to the paid-up capital stock thereof; and any such allotted stock which is not taken up by the shareholder to whom such allotment has been made, within six months from the time when notice of the allotment was mailed to his address, or which he declines to accept, may be offered for subscription to the public, in such manner and on such terms as the directors prescribe.

It will be seen that when offering this stock to the shareholders a maximum premium is prescribed. When offered to the public the directors have full power to fix the rate. They cannot however offer it below par. If they should do so the purchasers would be liable to be called upon to pay the differ-

ence between the amount paid by them and the par value of their shares.

The directors further, regulate transfers, make calls, and annual statements, and declare dividends.

Sec. 47. The directors of the bank shall, subject to the provisions of this Act, declare quarterly or half yearly dividends of so much of the profits of the bank as to the majority of them seem advisable; and they shall give at least thirty days' public notice of the payment of such dividends previously to the date fixed for such payment; and they may close the transfer books during a certain time, not exceeding fifteen days, before the payment of each dividend.

The next section provides that no dividend shall be declared so as to impair the paid-up capital, and §49 that no division of profits either by way of dividend or bonus may exceed 8 per cent unless the bank has a reserve equal to at least 30 percent of its paid up capital.

Calls: When shares are not fully paid at the time of subscription or issue the directors make calls of money for the balance, according to their discretion, at intervals of not less than thirty days. It is to be noticed that the calls are to be of *money*, so if the original subscription is based upon an agreement that the stock shall be paid for in property or service the agreement is not binding.

The call can be made only at a meeting of directors duly called at which a quorum is present; it must fix the time and place of payment; and only one call should be made in a single by-law or resolution; and there should be an interval of not less than thirty days, not only between the dates of payment of successive calls, but also between the actual making of them.

Having made legal calls, the directors are empowered to enforce payment or forfeit the defaulting shareholders stock.

We now come to that very important part of the directors powers the *issue of notes*.

Sec. 51. authorizes the issue or re-issue of demand notes for \$5 or any multiple of that sum to an amount equal to the unimpaired paid up capital of the bank, and imposes severe penalties should the circulation exceed the prescribed limit. The bank of B. N. A. being an Imperial corporation, the shareholders of which are not subject to a double liability, is excluded from the provisions of §51, and may issue notes only up to 75 per cent of its unimpaired paid up capital, unless it deposits with

the Minister of Finance and Receiver General cash or bonds to an amount equal to the excess.

In 1899 an Act was passed to enable Canadian banks to issue sterling notes of £1 or any multiple in other British possessions.

Sec. 53. The payment of the notes issued or re-issued by the bank and intended for circulation, and then in circulation, together with any interest paid or payable thereon as hereinafter provided, shall be the first charge upon the assets of the bank in case of its insolvency; and the payment of any amount due to the Government of Canada, in trust or otherwise, shall be the second charge upon such assets; and the payment of any amount due to the government of any of the provinces, in trust or otherwise, shall be the third charge upon such assets.

And these notes are, as you are of course aware, further secured by The Bank Circulation Redemption Fund, the fund established by the deposit with the Minister of Finance and Receiver General, of a sum equal to 5 percent of its average circulation.

The distinctive features, of our bank not issues, in the words of Mr. Walker are:—

(a) They are not secured by the pledge or the special deposit with the government of bonds or other securities, but are simply credit instruments based upon the general assets of the bank issuing them.

(b) But in order that they may be not less secure than notes issued against bonds deposited with the Government they are made a first charge upon the assets.

(c) To avoid discount for geographical reasons each bank is obliged to arrange for the redemption of its notes in the commercial centres throughout the Dominion.

(d) And finally to avoid discount at the moment of suspension of the bank, either because of delay in payment of note issues by the liquidator, or of doubt as to the ultimate payment, each bank is obliged to keep in the hands of the government a deposit equal to five percent on the average circulation, the average being taken from the maximum circulation of each bank in each month of the year.

As a matter of fact, liquidators almost invariably are able to redeem the note issues as they are presented, but in order that all solvent banks may accept without loss the notes of an insol-

vent bank, these notes bear six percent interest from the date of suspension to the date of the liquidators' announcement that he is ready to redeem.

The result of our system of Note Issue is that every Canadian has a sense of complete security in the money of the country. Its efficacy is recognized and coveted by our neighbors to the south, and while fault may be found with some details of our monetary system, it is on the whole well abreast of modern intelligence and affords our citizens ample accommodation for all legitimate needs.

Side by side with the bank notes there exists the issue of government notes to the sum of twenty million dollars, of which the banks must hold as part of its reserve, an amount not less than 40 percent of the reserve. This obligation is severely criticised by same financiers as being a needless burden on the banks, which has been imposed on them by the Government, in ignorance of the sound principles of monetary laws. It is pointed out by these critics that the same principles govern the relation between debtor and creditor whether a state or an individual is the debtor; these principles operate with equal force in either case, and cannot be set aside with impunity.

There is no such thing as compulsory credit; the whole-banking system of Canada rests upon a foundation of confidence; hence when the Government exacts from the banks an enforced credit of forty percent of their reserves, it weakens their foundation, and with it the whole fabric of credit of the Dominion.

The public it is true cares little about this question, since no judicious banker would force these notes upon a customer who needed coin, although they may be legal tender. If it bears hardly on the bankers themselves, and that is a question of practical experience beyond the scope of the present lectures, doubtless, measures will be taken in the future to relieve the banks from a needless burden. It seems a little anomalous to say the least, that the Government should provide under severe penalties that so large a proportion of the reserve shall be held in Dominion notes, while the bank is under no obligation, except that of its own good sense, to have a reserve at all.

The remaining powers or duties of the directors are that of opening branches, which we shall deal with in our next lecture, and the making of monthly returns to the Minister of Finance.

It seems almost elementary that the provisions of the Act with regard to the returns are absolute and final, and should be

followed exactly to the letter: It is but natural that the Government should insist on this formality for were banks permitted to make returns according to their own ideas and systems, it would require a separate department of hundreds of clerks to tabulate and classify the tangle of statistics that would find its way to Ottawa, and the public, the anxious eager impatient public, would lose its temper or its faith in the soundness of our banking system.

Although all this seems so very obvious as to need no comment, my attention was called the other evening to the fact that Managers and Directors have been known to deviate from the express form in the Act, and send in returns according to their own ideas.

Shares and Transmission of Shares—S. 29

Under the provision of our Code shares in a bank are personal estate, or movables. Act. 387 says that "all shares or interests in financial, commercial or manufacturing companies, although such companies for the purpose of their business should own immovables, are by determination of law movables."

The distinction between real and personal estate, or immovables and movables is sometimes of the utmost importance; for instance, a husband, under the regime of community of property, which in default of an ante-nuptial contract, governs the status of consorts in our Province, has the administration of all the private property of his wife, and may dispose of her movables, but he cannot without her consent dispose of immovables which belong to her. It would be important also in the interpretation of wills, when different property is bequeathed to different legatees, for while shares are personal estate, it has been held that they are not "securities" and would not pass under a bequest of "bonds" moneys, and securities." Knight & Barker 16 M. W. 66).

The Act unnecessarily, so far, at least, as this Province is concerned, declares that shares of the Capital Stock of the Bank shall be personal estate, and they are assignable and transferable as any ordinary stock.

It is in the matter of assigning and transferring shares that the banker must be very careful to assure himself that the parties are fully capable of acting, and that their acts are proper and legal. So far as the banks own by-laws with regard to

transfers are concerned, the officials will be well posted in their legal powers in making or accepting the transfer.

One should first of all be sure that the share-holders' debts and liabilities to the bank which exceed in amount the remaining stock, are properly discharged, for without such precaution the bank would lose its lien on the shares.

The capacity of the shareholder to contract should next be carefully examined. For instance, when a father executed a transfer of certain shares in a bank to his minor son, and purported to accept the transfer on behalf of his son and the bank acted upon the transfer and paid him dividends, it was held that the transfer was void for want of legal acceptance.

There is no description of transfer with respect to which a legal acceptance is more necessary than a transfer of bank stock, and this particular transfer lacked the essential characteristics of a valid contract. There was not a concurrence of two minds, *aggregatio mentium*, as the father acted entirely by himself; and there was no valid acceptance on behalf of the minor, for the father could not effectively act as both donor and the representative of the donee.

The action was accordingly dismissed and the shares reverted to the estate of the father who was insolvent. This is especially important in the transfer of bank shares, because in case of insolvency the shareholders often seek to escape the double liability by claiming that the transfers to them or their predecessors are invalid.

The documents produced with the application for transfer of shares should be carefully scrutinized to guard against mistake or fraud.

The Act has by Section 37, with the object of preventing gambling in bank shares, or engaging in transactions which are really betting on the rise or fall of the stock in the market, provided that the transferee must be the registered owner. Besides the voluntary transfer that is a matter of ordinary business, stock may be transferred by sale under a writ of execution, over which proceeding a lawyer usually presides.

The other forms of transmission are by death, insolvency or the marriage of a female shareholder.

This is effected by a Declaration of Transmission acknowledged before a judge, a mayor or a notary, setting forth all the essential facts, distinctly stating the manner in which and the person, to whom the shares have been transmitted, becomes

entitled to these. In the case of death you would, of course, examine the deceased's will to verify the declaration, and you would ask for a certificate from the Collector of Provincial Revenue that all succession duties had been paid. This is important for all banks even when the head offices are not situated within the Province of Quebec, for the shares of any of their Quebec shareholders are liable for the tax under an amendment to our Succession Duties Act, passed in 1903.

In the case of the marriage of a female shareholder the Declaration of Transmission must be accompanied by a copy of the register, and declare the identity of the wife with the holder of the share, and give all particulars of the wife's status.

In our Province, if there be no marriage contract, the husband as the head of the community has administration of the wife's property, and becomes entitled to the stock. When the marriage domicile of the female shareholder is in a province or country where by law she has the exclusive control of the property as if she remained single the bank might dispense with the husband joining in the declaration.

Under the Bank Act persons whose names appear in the books of the bank as holders of stock, are liable as contributories under the Winding up Act, although the person whose name so appears may have supposed that he held such stock in pledge and as collateral security to secure the payment of an advance—it not appearing in the books of the bank that the stock was so held.

Nothing is better settled in the law of corporations than that the stockholder, whose name appears on the books of the corporation with his own consent is absolutely bound in the character which he thus assumes, both to the company and to its creditors.

(TO BE CONTINUED.)

GROWTH OF CIRCULATION AND POPULATION.

In the past five years the population of the United States has increased over 7,000,000, or 9 per cent. The money circulation increased in the same period nearly \$570,000,000, or over 28 per cent. With this large gain in circulation in comparison with the gain in population the per capita gain in circulation grew from \$26.62 in 1900 to \$31.07 in 1905, an increase of over 16 per cent.

CANADA ENJOYS PECULIAR BANKING ADVANTAGES.

A PROMINENT Chicago banker who has returned from an extended trip through Canada and who devoted much of his time while there to an investigation of the Canadian banking system, sees many advantages in it. In substance he said:

Recent statements of the prosperous and growing condition of the banks of Canada, and the well known fact that there has been no trouble in the Dominion over money rates, and that Canadian banks loan freely in New York and Chicago market when rates are high, serve to call attention to the advantage Canada enjoys in her banking system, which contributes materially to the rapid growth of her business. This advantage lies in the general elasticity of the system, its ready adaptability to the work it has to perform. This is mainly due to two causes, freedom in establishing branches and facility in issuing and redeeming circulating notes.

While the settled and developed part of Canada is comparatively narrow from North to South, it stretches across the continent from East to West over a greater distance than any part of the United States, and rapid development is going on west of the Lake region. While she has less than forty banks located in the principal cities of the different provinces, there is never any lack of banking facilities, for these can establish branches wherever they are needed and can be made profitable. Thereby the facilities can be afforded much more economically and safely than by means of small independent banks, and the capital of the central institutions can be availed of wherever there may be use for it. The result is that interest rates are but slightly higher in newly-developed regions than the older sections, which is an enormous advantage in contributing to their growth and progress. Just as fast as banking facilities are required they furnish at the lowest cost by strong banks operating through their branch offices.

No less advantageous is the Canadian bank currency system, which is based entirely upon the credit of the banks and secured only by their resources and reserves and the liability of

stockholders, with a redemption fund to insure the immediate payment of the notes of any bank that may fail. The system has worked with entire success and safety for thirty-five years, with the result that there are no periods of stringency or plethora to disturb the money market of Montreal or Toronto. The currency expands easily to meet the demand of the crop-moving season, and as easily and surely contracts when its requirements are over, and the volume is continually adjusted to the fluctuating needs of business. Having the gold standard but no coinage system of her own, except for subsidiary silver, and using both the pound sterling and the American eagle as legal tender, Canada has all the advantage of a safe and flexible currency through her admirable bank system, and it contributes not a little to her continuous and increasing prosperity. Our statesmen and financiers ought not to be too proud to study and learn from it.—*The Chicago Banker*.

State authorities, and perhaps the examiners of National banks also, are liable to become more or less careless in enforcing sound banking principles when everything looks favourable. This is the time, above all others, when the propensities of the speculatively inclined banker should be placed under restraint, and even those who are ordinarily conservative must be watchful lest they become unduly exhilarated by the spirit of optimism with which the atmosphere is charged.

The time for the Comptroller of the Currency, and the supervising authorities of State banks, to weed out unsafe banks is before a crisis begins. As the presence of crippled or famished soldiers in the ranks of an army could cause it to waver under attack, so would the banks of the country be unable successfully to resist the shock of a panic if there were any considerable number of weak institutions ready to fall at the first sign of trouble, and thus spread the feeling of alarm.—*American Exchange*.

TIME TO CALL LOANS.

When you see a man reading "How to Make Easy Money in Wall Street" it's time to collect that quarter he owes you.—*Puck*.

FROM WEST TO EAST.

The comprehensive title of East and West prompts me to send from the West to the East—from Canada to Hindustan—a plea for closer union and brotherhood in our world-wide Empire. Among the valuable papers in this magazine it is pleasing to find several that counsel more concord in Hindustan and the removal of the racial and religious prejudices which are bars to combination. But I wish to say a word in favour of a wider union, of a consolidation of the whole Empire, a consolidation which would guarantee to all its members security, peace and progress.

Altruism may be concentrated or diffused. It may extend itself to mankind, like the divine altruism of the Buddha or the Christ. It may confine itself to the family, like the affection of some barbarians. This contraction of altruism is an instinct common to us with the beasts and needs no encouragement, but the broader forms of altruism—love for our country, our empire and mankind—are to be fostered and admired in ascending degrees. Some nations calling themselves enlightened and Christian refuse to admit even honest and healthy foreign labourers. No society to convert heathens is so much needed as a missionary movement to christianise Christians, to teach them to practise toward their brethren of all nations that goodwill which Christ so beautifully taught and which most Christian lands and individuals loudly profess and quietly ignore. When patriotism is so fervent and concentrated as to preclude due love and consideration for other nations, it is a menace to the peace and welfare of the world. Patriotism confined to India, or Ireland, or Canada, is to be admired, if it is not carried too far, but patriotism to the Britannic Empire, unless it degenerates into Jingoism, is likely to effect more for mankind. And it is for this reason that the consolidation of the Empire is to some men a religion.

Of human instruments the British Empire is the one which has worked best for the happiness of the world. It diffuses freedom and light. It combats the demon of religious intolerance. It secures from aggression and revolution 23 per cent. of mankind, and, when consolidated, will secure us still more

surely. It is the most benign and successful coloniser recorded in history. It respects and guards the laws and customs of its dependencies unless humanity forbids.

The British Isles and India keep their gates open to the desolate and oppressed of all lands. In their tariff policy, too, the British Isles and India treat foreigners as brothers, allowing them to interchange their products freely. In both these respects the British Isles and India keep to the Golden Rule more loyally than other members of the Empire. And they are also the only members who contribute their fair share to imperial defence.

Yet complete home rule, which has been granted to Canada, Australia and some provinces of South Africa, has not been granted to India. Self-government must be given to her also, but it must be given gradually. At present the prejudices of caste, religious animosities, child-marriages, and local objections to sanitary necessities, are some of the barriers to the concession of home rule. But, as the civilisation of India approximates more and more closely to that of the Anglo-Celtic portions of the Empire, instalments of home rule, like those suggested by Sir James Thornton, must be conceded to her. She must eventually become a co-ordinate partner in the Empire, if the staves of the unhooped barrel (to use Judge Haliburton's simile) do not fall apart before they are securely fastened together.

In 1897 Canada brought out a Jubilee postage stamp bearing the proud legend, "We hold a vaster Empire than has been." It would have been more modest and true to say "We hold on" to the Empire, for we in Canada were then contributing nothing towards holding it. We have now assumed the defence of Halifax and Esquimalt, which partly redeems us from the disgrace of sponging on the Motherland for our protection. If, instead of being confined to Canadian garrison duty, the new levies were placed at the disposal of the War Office, they would be a more effective contribution to imperial defence. Besides, if, they were permitted to go to Britain, India or Australia, interchanging with troops from other parts of the Empire, their travels would broaden their minds and those of their friends at home, and the sense of brotherhood between the various nations of the Empire would be increased.

The consolidation of the Empire on a federative basis involves the grant of full partnership by Britain to the great

Colonies and the acceptance thereof by the latter. It seems to me desirable to test and ascertain the true feelings of the United Kingdom and the Colonies on this great subject, for if Britain will not rise to her imperial destiny and permit colonial representation in a remodelled Parliament, she does not deserve the headship of this world-wide Empire. If, on the other hand, any self-governing Colony should vote against contributing its fair share to the imperial services, it would be unfair that the other federating partners should go on bearing unreciprocated risks and responsibilities for the protection of a shirker. As that true imperialist, the Hon. Joseph Howe, of Nova Scotia, wrote:—

If there are any communities of British origin anywhere who desire to enjoy all the privileges and immunities of the Queen's subjects without paying for and defending them, let us ascertain who and where they are; let us measure the proportions of political repudiation now, in a season of tranquility, when we have leisure to gauge the extent of the evil and to apply correctives, rather than wait till war finds us unprepared and leaning upon presumptions in which there is no reality.

And the same manly statesman declared that he "would not cling to England one single hour" after "the status to which we may reasonably aspire had been refused.

In a letter to King James I., Lord Bacon argued that "greatness of territory addeth strength" only when four conditions are present, and of these conditions one is "that no part or Province of the State be utterly unprofitable but do confer some use or service to the State."

There is a class of Colonials who have no sense of their imperial responsibilities or of the grandeur of belonging to such an Empire as ours; who show their gratitude by denying benefits and abusing their benefactors; whose idea of foreign policy is borrowed from the hermit-crab. It is this class chiefly, who, when Britain disallows some contention of theirs, are apt to threaten loudly to "cut the painter." If the majority of their countrymen should wish to follow the lead of these gentry in any Colony, the sooner that Colony goes, the better for the Empire. Let them "cut the painter" and enjoy their expensive independence, as long as they can hold it. The Empire can do without any such dependency. Even if it dwindles to the Three Kingdoms, and India and the coaling stations, it will remain

second to no other empire in power and wealth. And no man can take away its proud record.

I do not, however, anticipate that any member of the Empire would prove so unworthy of its imperial birthright. The seeming reluctance of the great Colonies to demand a co-ordinate instead of a subordinate status is mainly due to the action of the politicians who, fearing to commit their party to an unknown issue, try to ridicule and stifle its discussion. They are aided by most of the newspapers, which are party organs. The government of the day is particularly averse to new issues, having always a reasonable expectation of winning on the old ones by the aid of its machinery and patronage. In the Dominion there is a special obstacle to bringing the federation of the Empire to vote. It is assumed that French Canadians would solidly oppose it, and so they would, if the alternative were independence. But if they were persuaded of the truth, that the only practical alternative is annexation to the United States, I believe a large majority of them would choose imperial federation as the lesser evil. Roman Catholics are disposed to prefer monarchy to democracy; and, besides, the French Canadian hierarchy would lose some privileges and titles, while the public documents would not be printed in both French and English at Washington as they are at Ottawa. If the British Parliament offered Canada a co-ordinate position, like Ireland or Scotland, and asked that the decision be made by a plebiscite, so that neither political party would rise or fall by the result, or use its machinery to effect the vote, I believe that federation would carry the day. But ample time should be provided before the plebiscite, to enable both sides to put forward their arguments, and to convince the people that a vote against federation meant a vote for annexation.

Though it may not be too late to make this offer of partnership now, the most opportune time seems to the writer to have passed already, at least so far as Canada is concerned. In 1897, as I wrote elsewhere, many signs had appeared that imperialism had risen towards its flood. The two jubilees had effectually advertised the vastness and grandeur of the Empire; the pride of imperial citizenship—even of an uncontributing and unrepresented citizenship—had pervaded the Colonies. An affectionate veneration for the Great Queen was universal. A feeling of imperial brotherhood had shown itself here in the generous subscription for the starving Hindus initiated by the *Montreal*

Star. Canada had presented an unfaltering front from the Atlantic to the Pacific, when President Cleveland's interference in the boundary dispute of Venezuela and British Guiana made a rupture with the United States more than likely, although in such a war Canada would be the only vulnerable portion of the Empire. Her press and even her politicians had displayed their indignation at the intrusive congratulations sent by the Kaiser to President Kruger, which for a short time threatened to involve a war with Germany. A preferential treatment, more valuable as an evidence of gratitude than in its commercial results, had been offered to the mother country in the new Canadian tariff. The resentment of Canadians at jingo American efforts to starve them out of the Empire had been rising slowly for nearly a generation. Several politicians and papers that had sneered at movements for consolidating the Empire had recanted. A French Canadian had, for the first time, become Premier of the Dominion, and his compatriots were in the most favourable mood to accept any change that might seem generally desired by the English-speaking Provinces. The hour had apparently arrived, but not the man.

While Mr. Chamberlain deserves credit as the first English statesman who has recognized that unifying the Empire is the highest object of statecraft, it is to be feared that he has taken the wrong road. He will either succeed or fail in getting a British mandate to bargain with the Colonies for preferential treatment. If he succeeds, the Colonial manufacturers will probably prevent any tariff reductions sufficient to compensate Britain for the imposition of duties on foreign grain, and the bargainings would very likely lead to nothing but recrimination and ill-feeling. If he fails in securing the British mandate (as now seems likely), he will have furnished a plausible excuse to those colonials who wish to shirk their imperial burden. "No!" they can then say when any contribution is suggested, "if you had followed your great statesman, Chamberlain, we would have helped to consolidate the Empire in a practical business way, but you turned him down. No, not one cent!" Perhaps Mr. Chamberlain was misled by consulting colonial politicians too exclusively. As Colonial Secretary he was in constant contact with them, and they would have unanimously recommended his present policy, some because they felt it would prove nugatory, others because they hoped it might injure, and one or two because they hoped it might help, the federative movement.

India has given us the symbol and the hope of imperial federation in the banyan tree, whose shoots root themselves in the earth and help the parent trunk to sustain a mass of foliage that no other tree has generated or could support. But there are others reasons why the readers of *East and West* should feel interested in this federative movement. In the first place, federation would strengthen the Empire of which India is a part. Moreover, it would probably entail home-rule for all the federating partners, for the Imperial Parliament is already overcrowded with work, and it would be an anomaly for the remodelled Parliament to do the local legislation of England, Ireland and Scotland, while the junior partners retained their full rights of self-government. Indeed, the conviction that home-rule for each of the three Kingdoms would be the natural corollary of federating the Empire restrains some English imperialists from advocating decisive action. But, as a corollary of imperial consolidation, home rule for Ireland would lose its dangers. The flood of imperial enthusiasm, which would be required to launch imperial federation, would swamp disaffection everywhere. Irish separatists, if any such remained, would have to reckon with a more imposing power than heretofore—with Britain reinforced by all the resources of her new partners.

Home rule would doubtless be extended gradually to India if she remained loyal and removed the few obstacles which at present debar her from full self-government. For the precedent of home rule and federal representation would have been established, and this means much in an Empire.

“Where freedom slowly broadens down
From precedent to precedent.”

The time will come, if the unglued bundle of sticks does not fall apart, when Aryavarta, the abode of the Aryans, the land of colour and romance, of subtle philosophy and imaginative literature, will be a full and important partner in the federated Empire. Then, the galaxy of free States owing allegiance to the Crown, with the co-operation of the United States or of Japan, or both, could dictate peace and unburden the nations tottering under the weight of their arms.

F. BLAKE CROFTON.

CORPORATIONS AND THE PEOPLE—SOME EFFECTS OF RECENT REVELATIONS.

IN the business history of the past few years one of the things most striking to an observer is the extent and importance of the campaign against "graft." A number of popular magazines and periodicals have devoted their best energies to the task of ferreting out and publishing abuses and frauds in connection with the different industries, trades, and services. It is not proposed, in this paper, to make any observations on the revelations of dishonesty and immorality among the public officials administering municipal or other governmental affairs; it will be more interesting to study the effect of the fight against graft in business. It might be remarked, at the commencement, that some of those who have been most vigorous in their onslaughts against corporate vice have, perhaps, not been actuated by the purest of motives. Some were moved, undoubtedly, by the desire for self-advertisement and self-enrichment. But, though these instruments may have been mean and unworthy, it is impossible to deny that they, as well as others who worked disinterestedly, have accomplished good results. Sometimes the movement has had the appearance of being simply a blind, indiscriminate attack on corporations; and a skilful use has been made at all times of the latent hostility borne by the mass of the people against the rich and powerful. There was hardly a question of graft in the episode of the Northern Securities case, which might be regarded as the first of the series. Northern Securities was a combination of powerful railroads in defiance of an existing law. Its authors pleaded that the "community of interest" idea, then so much in vogue, was a good thing; and that with a consolidation of the management and control both properties could be operated more economically. The public was assured that it need not fear a rise in freight rates; as a matter of fact shippers were encouraged to hope that the economics of operation might result in lower rates. Notwithstanding all that was said, the people of the north-western states, which lay in the territory of the railroads in question, at once began to fight the merger. The

State of Minnesota started a suit to annul the deal; and the Federal Government at Washington soon afterwards took similar proceedings. As everybody knows, the United States Supreme Court decided against the merger, and its authors had to dissolve it. For some time previous there had been an active movement among the railroads towards concentration and consolidation. The power of some of the great railroad magnates was becoming greater and greater as they added road after road to their systems. The effect of the Northern Securities decision was to check this movement—to stop it altogether where the combinations were between competing railroads. In this case there was not a noisy popular agitation. What popular agitation there was occurred some time before when the anti-trust laws were passed. But the Government heads acted promptly as soon as they were satisfied that the big merger was illegal. Of all the campaigns against the corporations this had the most striking effect on the stock market. There was a big panic in Wall Street on 9th May, 1901, known as the “Northern Pacific corner.” This panic was precipitated by competitive buying of Northern Pacific stock—the Hill-Morgan group of financiers on one side, and the Harriman-Kuhn Loeb group on the other. The former won out, and the Northern Securities Corporation was the fruit of their victory. Then, afterwards, when the news came that the merger was quashed, the stock market got considerably excited, and some heavy declines were recorded.

The campaign against the Standard Oil Company, or the Oil Trust as it is called, has lasted quite a few years. It has been essentially a popular movement; the state and federal authorities being stirred up to action by the demand of the people. A certain section of the magazines and of the daily press has waged an untiring war against this company. The charges made against it have been of a nature to arouse wide feelings of hostility and dislike. It has not been above practising mean and disgraceful methods of putting its competitors out of business. The many well-authenticated instances in which this rich powerful concern stooped to petty tricks in order to ruin the trade of weak rivals, when published broadcast through the States, did much to inflame the general hostility against it. It has the record, in the general estimation, of using all its power and influence to put all competitors to

ruin. Nobody else in the same line of business is to be allowed to live. It was inevitable that the American people should fight hard and bitterly against persons whom they believed were governed by such a creed. And, even if it were always used mildly and tolerantly, the company's power is so enormous as to rouse opposition and fear. One of the chief sins of the Standard Oil Co. has been the exacting of secret rebates from the railroads. Out of these it formed a weapon that proved to be deadly for many of its competitors.

The Oil Trust has, on the other hand, conferred a number of substantial benefits on humanity. True, it conferred them in the ordinary course of its business, and with the end of making money for itself, but, notwithstanding that, it is entitled to some credit for them. Whatever credit it gets is given reluctantly, and no one thinks of being grateful to the Trust for cheaper oil or for any other of the benefits it has been instrumental in bringing to pass.

This prolonged fight against the Standard Oil Co. has not resulted in driving it out of business; it has not even been crippled, but has gone ahead continually expanding and prospering. But the campaign has not by any means been fruitless. The company has had recourse to various artful changes in its form designed to meet the new laws enacted against it. The railroad rebates have been pretty well abolished, and other substantial reforms forced. During its course no very remarkable effect has been produced on the stock market. Perhaps one reason is that there were no very startling developments coming suddenly to take the market off its guard. Speculators saw in it only the old wearisome struggle of the "Have-Nots" against the "Haves"; and while they felt that it might possibly culminate at some day in the future, in socialistic legislation disastrous to vested property rights, they saw at the same time, that this remote possibility was not one of the concrete facts or circumstances that Wall Street is in the habit of taking into its daily calculations.

Then, last year came the life insurance investigations. The revelations made were of a nature to cause, one might think, profound disturbances in the stock markets. Things were going along in American insurance circles pretty much as they had been for years past; when one day Mr. Alexander, the president of the Equitable, decided to take the public with him into the

quarrel he was having with Mr. Hyde, the vice-president. Of course he could have had no idea of what the ultimate consequences of his action would be. As soon as the investigation was well under way the public learned, to its great surprise, that men of the highest eminence in finance, whose names adorned the directorates of the country's largest, most representative corporations, were not above feathering their own nests at the expense of widows and orphans, the beneficiaries of the insurance policies granted by the Big Three of New York City. For many of the practices the only defence urged was that they had become custom through long usage. So great was the storm of indignation and censure following these disclosures that the parties implicated thought it well to restore to the insurance companies' treasuries large sums representing personal profits improperly taken.

This campaign, against the insurance grafters, was short and decisive. The Armstrong Committee, appointed by the New York State Legislature, learned as quickly as possible what were the chief abuses in connection with the life insurance business; and the legislature almost immediately afterwards set itself to the task of bringing in remedial legislation. The good done by the insurance revelations is not measured by the remedial legislation put through. Its real effects are far more important. Just as soon as the questionable acts of the insurance financiers were made public their repetition on a large scale became at once impossible. The acts, though immoral, were, generally speaking, legal. High minded gentlemen could hardly have done them, but, as mentioned above, many of them were sanctioned by usage and others were on the way of becoming so. Of course, when they were, so to speak, brought officially to the notice of the people there was nothing for it but that they should be put in the list of things not to be done. Henceforth, the financial world knows that society has pronounced against such practices as prevailed, and things would have been different in the future even if no new laws were enacted. But the new rules were very necessary to regulate the conduct and management of the insurance companies. In the future they are to be run, actually as well as nominally, in the interests of the policyholders. While these discreditable affairs were being ventilated there was ground from which to make some startling deductions. For example, a number of

the men who were shown up in wrong-doing were very prominent on the boards of other great corporations — banks, railroads, industrials, etc. If they considered themselves so light bound by honourable feelings in managing the affairs of the insurance companies would they be more scrupulous in their conduct of the affairs of other companies? In other words, if they could bring themselves to rob the beneficiaries of insurance policies, would they refrain from robbing holders of stock in their other corporations? It would not be surprising if the small stockholding class had shown considerable uneasiness on this account. Quite possibly some of them allowed their fears to influence them to sell out their holdings. But there was no important market disturbance that could not have been ascribed to other causes, notwithstanding that extraordinary efforts were made by a well known market operator in Boston to bring about a panic. The failure of Lawson to produce a greater effect is the more remarkable when it is remembered that another result which the disclosures are supposed to have had was to remove from the control of the big Wall Street market manipulators the huge fund of life insurance ready money to the use of which they had become accustomed.

The campaign against the Beef Trust has resembled that against the Oil Trust. It is another instance of the people protesting against a big monopoly. The big packers appear to have practised objectionable methods to get rid of competition. There is very little likelihood that they would ever have been caught with their Chicago packing plants in such disgusting shape if they had had strong competition to face. Once in sole possession of the field, all important competitors out of the way, they did not feel the necessity of having their plants clean, new, and up-to-date. The probability is that it will take them a long time to recover from the effects of this blow which they have, in a sense, dealt themselves and their own trade.

Of a different nature are the revelations of graft in the railroad business. The investigations of the Interstate Commerce Commission were undertaken in response to the demands of shippers who considered themselves aggrieved. It is quite possible that the complaining shippers would not have achieved their end but for the results attained in the insurance investi-

gation a few months before. One of the chief complaints against the railroads was that they showed an unjust discrimination in the distribution of the car supply. Favoured shippers were allotted enough cars to enable them to carry on their business to the best advantage while others were not given enough cars. The brunt of the attack fell on the Pennsylvania Railroad. It was clearly proven that some of its high officials were addicted to graft. Up to the time of writing nothing has come out to incriminate the directors. The fault has lain with the employees, some of whom became rich through presents made to them by coal companies operating along the lines. In the case of the New York Central, too, it was shown that, though the employees so far examined, took no presents from shippers, the company itself did accept stock in one or two instances. The tendency of the human mind to go back and beyond the things brought to light in investigations like these was illustrated by what happened in the Pennsylvania case. As soon as it was proved that officials of the company had taken bribes in connection with the distribution of the car supply and with the purchase of company supplies people at once began to ask themselves, "Was there graft in connection with the enormous capital expenditures of the railroad company during the past few years?" These have amounted to between five and six hundred millions, and the opportunities for dishonest commissions, etc., would be large unless the management was particularly strict and honest. At the beginning of the inquiry some special weakness was manifested in Pennsylvania stock, but it has not been more than might be caused by the \$100,000,000 of fresh bonds just issued. The evident determination of the Interstate Commerce Commission is to probe the affairs of the other leading railroads, and there is an idea that they will not be found more virtuous than the Pennsylvania. It would not be surprising if some were found worse, as the Pennsylvania has been, and is still, regarded as a model among American railroads. It is quite easy to see why railroad stockholders should display no signs of alarm at the prospect of this further inquiry, even if it should bring to light evidences of graft among railroad directors as well as among railroad employees. Whatever is brought out the outcome is likely to be beneficial to the stockholders. President Cassatt, of the Pennsylvania, has acted promptly. The direc-

tors have organized a house cleaning committee, and several of the grafting employees have been summarily dismissed. The practices of the offenders resulted in loss to the stockholders through the railroad failing to get its full price for services rendered to the shippers who gave bribes, and its earnings were less because of the shipments of freight not made by shippers unable to get cars. In the future, there is no doubt but that earnings will benefit by the reforms instituted and to be instituted. This applies also to other roads. They are already setting their houses in order even before they are reached by the enquiry. Indeed, in the case of all the campaigns and investigations treated of in this paper, such results as have been achieved are nearly all for the benefit and advantage of the small stockholding and investing class. Insurance policyholders are in reality investors; and they reap substantial gains from the changes introduced into the insurance business as a result of the labour of Senator Armstrong's Committee. Although great gains have thus been made, it is recognized also that there is danger of harm through the cumulative effect which the revelations of wrong-doing by corporations will have in strengthening the socialists and other enemies of property. Regarding this danger the *Wall Street Journal* says: "Nothing will prove more destructive to vested rights, nothing will work more injury to American economic institutions, than wrong committed by the corporations themselves. Nothing works more surely for socialism than the anarchistic spirit which has prevailed in the administration of many of our great business enterprises. One big corporation working wrong by methods of unfair competition and political corruption does more to aid the socialistic propaganda than all the rabid utterances of yellow journalism, bad as yellow journalism is."

H. M. P. ECKHARDT.

FEW SAVINGS BANKS IN MEXICO.

Savings banks are practically unknown institutions in the City of Mexico. If a man has a small amount to deposit, with the expectation of being able to add to it from time to time, he will be at a loss to find a bank that will be willing to take care of his apparently insignificant sums and pay him interest on the money that is thus gradually deposited.—*Mexican Herald*.

IS THE TAX ON STOCK TRANSFERS IN THE PROVINCE OF QUEBEC CONSTITUTIONAL?

ON the first of last September there entered into operation in the province of Quebec an Act passed by the Provincial Legislature imposing a tax on stock transfers. The amount of the tax is "two cents for every one hundred dollars or fraction thereof of shares, bonds, debentures or debentured stock sold, transferred or assigned." As the imposition of new taxes is never popular the Act in question has been considerably criticised and it is frequently asked whether the Provincial Government did not exceed its powers in passing it. To answer the question will require some consideration of the constitutional powers of the provinces under our governmental system. It will also involve a discussion of what constitutes direct and what indirect taxation, not only from the standpoint of political economists, but also in the light of any judicial decisions which may have been rendered in reference thereto.

The various legislative powers of the Dominion and Provincial Parliaments are established by the British North America Act of 1867, whereby the then different British Colonies of North America were consolidated into one Dominion. By that Act certain subjects, such as banking and the regulation of trade and commerce, etc., were placed within the legislative jurisdiction of the Dominion Parliament, while the right to deal with certain other classes of subjects was given to the provincial legislatures. This division of legislative function between the Dominion and provinces has given rise to a great many constitutional questions, as regards the exact powers of the provinces. It has now been decided, however, by different judgments of the Privy Council that the provinces are supreme within their own legislative spheres, but that they can only legislate in reference to matters placed by the British North America Act within their jurisdiction. The moment they pass beyond this range of subjects they are acting *ultra vires* and any act so passed in excess of their powers is null.

The only sections of the British North America Act with which we are at present interested are those dealing with tax-

ation. These are section 91, sub-section 2, which gives the Dominion Parliament the right to raise money by any mode or system of taxation; and section 92, sub-section 2 which gives to the legislature in each province the right to impose direct taxation within the province in order to raise a revenue for provincial purposes; and section 92, sub-section 9, which also places within the provincial jurisdiction, shop, saloon tavern, auctioneer and other licenses in order to the raising of a revenue for provincial, local, or municipal purposes. These sections, therefore, give the Dominion the right to levy any taxes it may choose, direct, indirect, customs or excise, while the provinces are restricted to direct taxation within their own boundaries, and to the revenue which may be derived from shop, saloon, tavern, auctioneer and other licences. The tax we are discussing is certainly not a licence. The only other head under which the Provincial Government can pretend to have authority to pass it is that it is direct taxation within the Province, and, therefore, the question resolves itself into whether a tax on the transfer of stock, varying with the par value of amount transferred and payable by the vendor or transferrer and in certain cases by the broker is or is not direct taxation. If it is a direct taxation it falls within one of the classes of subjects given by our constitution to the provinces and consequently it would be upheld by the courts. If it is indirect the province has exceeded its authority in imposing it and the tax is illegal.

In the discussion of this question very little help is to be derived from any decided cases in those countries, the decisions of whose courts have weight in the Province of Quebec. In England and France there is no divided jurisdiction. In each of these countries one central government has all the taxing power, and the question as to what are direct and what are indirect taxes can never arise in their courts. In the United States there is a division of legislative authority between the Federal and State Governments somewhat similar to that between our own Dominion Parliament and provincial legislature, and this very question as to what constitutes direct and what indirect taxation has been a most fruitful source of litigation before American courts. The difference, however, between the American and Canadian constitutions are such as to render the Americans decisions of very little help to us in solving our own difficulties. The American constitution provides that representative and direct taxes shall be apportioned among the several

States according to their respective numbers, (Art. I, Sec. 2, cl. 3) that Congress shall have power to lay and collect taxes, duties, imposts and excises and to pay the debt and provide for the common defence of the United States, but all duties, imposts and excises shall be uniform throughout the United States (Art. 1, sec. 8, cl. 1), and that no capitation or other direct tax shall be laid unless in proportion to the census and enumeration heretofore directed to be taken, (Art. 1, sec. 9, cl. 4). Thus while with us no restriction is placed on the power of the Dominion to levy taxes and the provinces are restricted to direct taxes and to certain licences, in the United States Congress, or the central power, can levy no direct tax unless it apportions it—that is, divides up the amount which it is desired to raise and asks each State to pay an amount bearing the same proportion to the whole sum to be raised that its population bears to the whole population of the Union—and no indirect taxes unless it makes them uniform throughout the United States, while each state can impose any tax it sees fit except “imposts and duties on imports except what may be absolutely necessary for executing its inspection laws” (Art. 1, sec. 10, cl. 2).

This apportionment by Congress of direct taxes is very inconvenient and as a result they have seldom been resorted to, and almost all Federal taxes have been passed under the guise of indirect taxation. As it is a principle of constitutional law that any doubt as to the constitutionality of a statute that is being attacked before the courts must be decided in favour of the Statute, the courts in the United States would be inclined to find a tax passed by Congress indirect, while in the case of taxes imposed by one of our own provinces the tendency of our courts would be to sustain them as being direct. So much has this been the case in the United States that the word “direct taxes” as used in the American constitution has received a special construction in the American courts somewhat at variance with the doctrine of political economists. Indeed, in one case, in which a citizen of Illinois resisted the payment of a national income tax on the ground that such a tax was a direct tax, and not being levied in the manner prescribed by the constitution was not legal and valid, and, though an income tax elsewhere is universally considered a direct tax, the Supreme Court of the United States went so far as to say:

“Our conclusions are that direct taxes within the meaning “of the constitution are only capitation taxes as expressed in

"that instrument and taxes on real estate, and that the tax of
 "which the plaintiff in error complains is within the category of
 "an excise or duty."

Wells in his *Theory and Practice of Taxation*, page 364, says, in reference to this decision:

"Whether warranted or not the drift of public opinion in
 "the United States, has been that the decision of its Supreme
 "Court in the Springer Case in 1874, and to a certain extent in
 "all previous cases, touching the constitutionality of an income
 "tax was made under the pressure of an apparent political neces-
 "sity. Had the decision been to the contrary effect that the in-
 "come tax was a direct tax and any method of levying it other
 "than that prescribed by the constitution, that is according to
 "population—was unconstitutional, the government would have
 "been forever practically deprived of an effectual instrumentality
 "for raising revenue, which might be most desirable in cases of
 "emergency. Immense sums which had been paid under pro-
 "test as income taxes would also have been pressed for repayment
 to the serious embarrassment of the National Treasury."

Similarly it has also been decided that taxes on distilled spirits, succession duties on the devolution of titles to real estate, taxes on receipts of insurance companies from premiums and assessments and taxes on stock transfers are indirect taxes, and subject to the rule of uniformity but not to the rule of apportionment.

This difference between the American and Canadian constitutions has more than once been pointed out and commented on by the judges in our own courts.

Not being able, therefore, to receive any help from the judgements of the American courts, we must turn for the solution of our difficulties to the political economists and the decisions rendered in our own courts.

An examination of the different writers on political economy will show that there are two main groups of definitions of direct and indirect taxation. The one chiefly adopted by writers on political economy and the other largely used by practical financiers in the administration of revenue laws. The former makes the incidence of the tax, that is the persons upon whom it falls the determining feature, while the latter look to the time and method of payment.

Mill's definition may be taken as typical of those which make incidence the governing factor: He says, Bk. V, chap 3, § 1:

"Taxes are either direct or indirect. A direct tax is one "which is demanded from the very person whom it is intended or "desired should pay it. Indirect taxes are these which are "demanded from one person in the expectation and intention "that he shall indemnify himself at the expense of another; "such as excise or customs."

Leroy-Beaulieu, one of the more recent authoritative writers on political economy in France, gives the following as the administrative definition of direct and indirect taxation, though he calls it an empirical and unscientific definition (*Traité de la Science des Finances*, Vol. I, 213:

"Direct taxes bear immediately upon persons, property or "the enjoyment of riches. They apply to normal and perma- "nent situations and imply nominate rolls. Indirect taxes on "the contrary are levied on the occasion of an act, an exchange. "They do not imply as regards the contributor nominate rolls "regularly and periodically established."

Or, as this definition is given by another writer (*Corsa Am. Trans.*):

"Direct taxes are those levied on wealth in its immediate "manifestations, persons, incomes, estates; indirect those levied "on the secondary manifestation of wealth, e. g. transfers and "consumptions."

All writers on political economy who divide taxes into direct and indirect adopt one or the other or variations of one or the other of these definitions. The advantage of the administrative definition is that it is practical and there is very little difficulty in classifying taxes under it. In this system a tax such as the one we are dealing with, a tax on the transfer of stock, is clearly indirect, but as this classification is the outgrowth of conditions in Europe where the revenue laws are far more highly developed than in Canada it might not have much weight in determining the decision of our courts.

The difficulty of the scientific definition, on the other hand is that the incidence of taxation is a most uncertain quality and apart from certain standard forms of taxation such as customs, excise, and taxes on real estate and incomes, it is almost impossible to determine into which class a given tax may fall. Mill himself, whose definition has more than once been quoted by the

Privy Council as being the most favourable to the provinces, begins one of his chapters on taxation with the following words (Bk. V, chap 5): "Besides direct taxes on incomes and taxes on consumption, the financial systems of most countries comprise a number of miscellaneous imports not strictly included in either class," and in this chapter he discusses the tax on the transfer of property, and consequently he does not consider that these taxes fall within his definition of direct taxes. The writer of the article on Taxation in Volume 33, No. 9 of the New Volumes, of the Encyclopædia Britannica, on the other hand while adopting a variation of Mill's definition frankly classes stamp duties,—which includes stamps on stock transfers—among indirect taxes, placing them in importance next after excise and customs. Indeed, it is not too much to say that all writers on political economy, no matter what variety of definitions they adopt, class taxes on transfers of property, with possibly one or two exceptions, as regards the tax on transfer of real estate, as indirect, or at least of not being direct, and to this extent the administrative system and the more scientific definitions are in harmony. Consequently as far as the political economists go, the tax on stock transfers in the province of Quebec is constitutional for it is not direct taxation and the Privy Council, as has already been said, in more than one case, has laid down the rule that in order to make an Act of the Provincial Legislature legal it must fall within one of the classes of subjects enumerated by sec. 92 of the British North America Act, and it cannot be said that this tax falls within one of those categories of subjects.

If this tax on transfers of shares of stocks were held to be direct, it would give to the provinces the right to impose a large number of taxes, which in all definitions and classifications given by writers on political economy are held to be indirect and which the fathers of confederation certainly never contemplated giving to the provinces. In this connection the speech of the Hon. Mr. Galt, delivered in the Canadian Legislative Assembly on the 7th of February, 1865, is interesting and has some weight. For though the primary rule of statutory construction is that the meaning of a legislature in passing a given act must be found in the very words of the act, still in cases of ambiguity we are entitled to go outside of the act and look to the intention the Legislature had in passing the statute and the object it had in view, and it was on the Hon. Mr. Galt as being the then

Canadian Minister of Finance that fell the duty of explaining the financial basis of the proposed confederation. Speaking on behalf of the then government of the day, the members of which had thought out the scheme of confederation he used the following words in reference to the power of direct taxation which was to be given to the provinces:

"If nevertheless the local revenues become inadequate, it will be necessary for the local government to have resource to direct taxation; and I do not hesitate to say that one of the wisest provisions in the proposed constitution and that which affords the surest guarantee that people will take a healthy interest in their own affairs and see that no extravagance is committed by those placed in power over them is to be found in the fact that those who are called upon to administer public affairs will feel, when they resort to direct taxation, that a solemn responsibility rests upon them, and that that responsibility will be exacted by the people in the most peremptory manner. If the men in power find that they are required, by means of direct taxation, to procure the funds necessary to administer the scheme they will pause before they enter into any career of extravagance. Indeed I do not hesitate to say that if the public men of these provinces were sufficiently educated to understand their own interests in the true light of the principles of political economy it would be found better now to substitute direct taxation for some of the indirect modes by which taxation has been imposed upon the industry of the people. . . . In transferring to the General Government all the large sources of revenue and in placing in their hands with a single exception that of direct taxation, all the means whereby the industry of the people may be made to contribute to the wants of the state, it must be evident to every one that some portion of the resources thus placed at the disposal of the General Government must in some form or other be available to supply the hiatus that otherwise takes place between the sources of local revenue and the demands of local expenditure." . . .

Now it would be impossible to find any economic or legal distinction between a tax on sellers of stock, payable by the seller, and one on theatre tickets payable by the purchaser, or a tax on railway tickets payable by travellers, or a tax on receipts collected by means of a stamp to be affixed by the debtor, all of which taxes are elsewhere commonly classed with a tax on transfers, especially on moveable property, and should our courts place

these taxes within the category of direct taxation, the legal meaning of the words, "direct taxation" in the British North America Act would be as broad as the definition of the same word in the United States constitution is restricted by the jurisprudence of the United States Supreme Court, and this broad meaning of direct taxation was certainly not the one the Canadian House had in view when it adopted the British North America Act as is shown by the quotation from Mr. Galt's speech as given above.

Turning now to the legal decisions we find there are three cases which went to the Privy Council directly dealing with provincial taxation acts, and the decisions in which turned upon the question of what was direct and what indirect taxation. These cases are, the Attorney-General for Quebec vs. Queen's Insurance Company, Attorney-General for Quebec vs. Reed and the Bank of Toronto vs. Lambe, and it is suggestive that the whole three cases arose in the province of Quebec. In the two former cases the acts called in question before the courts were declared to be unconstitutional, while in Bank of Toronto vs. Lambe, which was a test case on which a number of others depended, the Privy Council sustained the Provincial Government. By this last case it was decided that a tax on banks and insurance companies, would carry on business in the Province, varying in amount with the paid up capital and with the number of its offices, whether or not their principal place of business is within the province, is direct taxation within clause 2 of section 92 of the B. N. A. Act, 1867. In Attorney-General for Quebec vs. Reed it was held, that a duty of ten cents on every exhibit filed in court in any action depending therein is *ultra vires* of the Provincial Legislature, while in Attorney-General of Quebec vs. the Queen's Insurance Company a tax imposed upon certain policies of insurance and upon certain insurance receipts and renewals payable by adhesive stamps to be affixed by the assurer at the time of drawing up the receipt or issuing the policy was held to be unconstitutional. In the two latter of the cases mentioned as having gone to the Privy Council, Mill's definition of direct and indirect taxation was cited by their lordships as being the more favourable to the provinces. The tax imposed on the capital of the banks and insurance companies was decided to be direct taxation because it had to be borne directly by the banks and companies and there were no means whereby they could directly

shift the burden of taxation. In the case of the tax upon exhibits the tax was considered indirect, because it was paid by litigants in suits and therefore ultimately by the losing party, and consequently at the time the tax was paid it was impossible to tell upon whom it would ultimately fall. The judgment of their lordships in this case was in part as follows:

“As in all other cases of indirect taxation, in particular instances, by particular bargains and arrangements of individuals, that which is the generally presumable incidence may be altered. An importer may be himself a consumer. Where a stamp duty upon transactions of purchase and sale is payable, there may be special arrangements between the parties determining who shall bear it. The question whether it is a direct or indirect tax cannot depend upon those special events which may vary in particular cases; but the best general rule is to look at the time of payment, and if at the time the ultimate incidence is uncertain, then, as it appears to their lordships, it cannot, in this view, be called direct taxation within the meaning of the second section of the 2nd clause of the Act in question, still less can it be called so, if the other view, that of Mr. McCulloch, is correct.”

It is to be noted, however, that the foregoing is a negative proposition, and does not necessarily imply that if the ultimate incidence of a tax is certain, as the Act imposing the tax on transfers of stock endeavors to make the tax it imposes, by making the seller responsible, that such a tax is therefore direct.

In the first of the cases mentioned, Attorney-General of Quebec vs. The Queen's Insurance Company, the Privy Council practically laid down the rule that stamp acts were indirect taxation. In the present connection this decision is the most important of the three, and we will quote the last part of it in extenso:

“As this is the result to which their lordships come, it becomes necessary to consider the effect of the second sub-section of the 92nd section. That authorises direct taxation within the province in order to the raising of a revenue for the principal purposes.” The single point to be decided upon this is whether a Stamp Act,—an Act imposing a tax on policies, renewal, receipts with provisions for avoiding the policy, renewal, or receipt, in a court of law if the stamp is not affixed—is or is not direct taxation? Now, here again we find words used which have either a technical meaning, or a general, or as it

"is sometimes called, a popular meaning. One or other meaning the words must have; and, in trying to find out their meaning we must have recourse to the usual resources of information, whether regarded as technical words, words of art, or words used in popular language. And that has been the course pursued by the court below. First of all, what is the meaning of the words of art? We may consider their meaning either as words used in the sense of political economy or as words used in the jurisprudence in the courts of law. Taken in either way there is a multitude of authorities to show that such a stamp imposed by the legislature is not direct taxation. The political economists are all agreed. There is not a single instance produced on the other side. The number of instances cited by Mr. Justice Taschereau in his elaborate judgement, it is not necessary here to more than refer to. But surely if one could have been found in favour of the appellants it was the duty of the appellants to call their lordships attention to it. No such case has been found. Their lordships, therefore, think they are warranted in assuming that no such case exists. As regards judicial interpretation, there are some English decisions, and several American decisions, on the subject, many of which are referred to in the judgement of Mr. Justice Taschereau. There again they are all one way. They all treat stamps either as indirect taxation or as not being direct taxation. Again, no authority on the other side has been cited on the part of the appellants.

"Lastly, as regards the popular use of the words, two cyclopaedias at least have been produced showing that the popular use of the word is entirely the same in this respect as the technical use of the word. And, here, again, there is an utter deficiency on the part of the appellants in producing a single instance to the contrary. That being so, it is not necessary, it appears to their lordships, for them to consider the scientific definition of direct or indirect taxation. All that is necessary for them to say is that finding these words used in an Act of Parliament, and finding that all the then known definitions whether the technical or general, would exclude this kind of taxation, they must consider that it was not the intention of the legislature of England to include it in the term "direct taxation," and therefore, that the imposition of the stamp duty is not warranted by the terms of the 2nd sub-section of section 92 of the Dominion Act. That being so, it appears to their

“ Lordships that the appeal fails, and they will, therefore, humbly
 “ advise Her Majesty to affirm the decision of the court below
 “ and dismiss the appeal.”

Strictly speaking the statements of their Lordships in this case are rather too wide, as stamps themselves are not taxes, but a means of collecting taxes, and it would be quite possible to collect a very direct tax by means of stamps, and this would not make the taxation indirect. Still, generally speaking, their Lordships remarks are correct, and would apply as well to the stamps on transfer of stock as to the stamps on insurance policies in reference to which they were made.

Though this case is very much in point, it must not be forgotten that unfortunately, or perhaps fortunately for the legal profession, nothing is more remarkable than the ability of judges to discriminate between apparently analagous cases, and to decide that a seeming similar case is not similar at all. Nevertheless, in spite of this, and of the tendency of courts to uphold the validity of legislative acts, in view of the foregoing cases and of the opinions of political economists our conclusions are that the tax which we have been discussing is unconstitutional, though the question is by no means free from doubt.

CHAS. M. COTTON.

QUESTIONS ON POINTS OF PRACTICAL INTEREST.

REPLIES may be obtained through this column from the Journal Questions Committee to enquiries of subscribers from time to time on matters of law and banking practice.

The questions received since the last issue of the JOURNAL are appended, together with the answers.

Bill due on Saturday—Is Bank compelled to keep open till 3 p.m. to enable maker to pay?

QUESTION 630.—Under the Bill of Exchange Act, Section 51, Sub-section 6B., a bill or note cannot be protested for non-payment up till 3 o'clock even on a Saturday. When under discussion in the House of Commons, the argument advanced was that Saturday was market day in many towns and chief business day. If the promissor of a note subject to protest was in a position to prove that he went to the Bank on Saturday between 2 and 3 p.m. to retire his note which was due that day, and was unable to gain admission, the Bank having closed for the day, what position would the Bank be in provided the Promissor could show that he suffered damage to his credit by the notices of protest, said notices having been mailed after 3 o'clock.

See "Canadian Banking Practice"—Questions 516, 517, 518.

ANSWER.—We presume the note is payable at the Bank.

If the promissor is a customer he knows that his Bank will not receive deposits after hours and that if he wishes them to pay his note he must provide for it while Bank is open.

If he is not a customer he should not make his note payable at the Bank.

In neither case would there be an action for damages against the Bank.

Cheques marked "Payable at par" at another branch.

QUESTION 631.—The question has been raised as to the responsibility of a Bank in permitting a client to draw cheques

crossed or marked payable at its Montreal Office at par, the words used, being, "Payable at Montreal Branch par." Some of the legal fraternity claim that this is tantamount to saying that the cheque is good, and when cashed at the Montreal Office would be considered a payment by the Bank with no recourse on the endorsers should it be dishonoured at the Branch on which it is drawn.

Do you think that the words "negotiable at par" would be preferable, or would this be a distinction without a difference?

ANSWER.—We are not aware that the question raised in your inquiry has ever been practically tested, but it is generally conceded that a Bank allowing its customer to cross cheques at par at such and such a Branch, or any Branch of the Bank, is assuming a risk that it should not be called upon to take and where such a privilege is allowed the words used should be such as to indicate that the cheque is negotiated not paid.

Municipal Auditors—Can Bank give them information regarding accounts?

QUESTION 632.—Can a bank give information to an auditor, duly appointed, of any municipality or School fund with regard to any balance or deposits or any transactions, when the account is either in the name of the municipality or school board, and the funds subject to the Treasurer's authority, or even the Treasurer and Reeve's authority?

ANSWER.—If the account is in the name of the municipality or school board, we think the auditor on producing a properly authenticated copy of his appointment, is entitled to the information.

Promissory Note with Joint several makers, one being a surety—Should it be protested?

* Similar questions have been fully answered, and will be found under their proper headings in Knight's "Canadian Banking Practice."

QUESTION 633.—Our solicitor expresses the opinion that a joint and several note, on which one name is accommodation maker, should be protested for non-payment, as we use these joint forms to avoid protesting the note in a good many cases, it would do away with the use of them to some extent if our solicitor is correct. It might be interesting to other Banks to know of this opinion and also for us to have other opinions on the subject, and I will be glad to have your views.

ANSWER.—We see no necessity for protesting such a note. The makers can both be held without protest. See Question 453, "Canadian Banking Practice."

Irregular acceptance returned for approval—Responsibility of collecting Bank.

QUESTION 634.—Drawee of a draft accepts it on terms different from those named in the body of the bill; the collecting Bank returns it to the sending Bank for approval of acceptance. The draft is again received back for collection neither the letter nor the draft bearing any mark that the acceptance is satisfactory. The collecting Bank assumes that the acceptance has been noted and approved and enclosed again for collection as per terms of drawee's acceptance. Do they incur any responsibility in this assumption?

ANSWER.—Under the circumstances we consider that the collecting Bank are justified in assuming that the acceptance is satisfactory.

Security for note realized before due date—Has Bank right to Hold?

QUESTION 635.—Bank of "A." advances its customer "B." \$1,000.00. on assignment of January account due by "C & Co." The advance is made on Dec. 14th. and the note made payable to mature Jany. 26th. A cheque for the amount of the account assigned by "B" is received from "C & Co" 2 weeks earlier than was expected. Would the Bank be justified in holding back the amount advanced to "B" until such time as the note matured, provided B. was not willing to retire his note before maturity and could it refuse any cheques presented which would reduce the account below \$1,000.00?

ANSWER.—Bank can certainly hold the amount received until their advance is paid.

LEGAL DECISIONS.

ATTACHMENT OF MONIES DEPOSITED IN DIFFERENT BRANCHES OF A BANK.

THE legal opinion upon this subject, to which editorial reference will be found in the present number of the JOURNAL, is as follows:—

Leaving aside for the present, the equitable jurisdiction of courts to grant injunctions, a plaintiff in the Province of Ontario cannot attach any debt owing to a person against whom he has a claim, until judgment has been recovered, except in the case of—

1. A debtor who has absconded from the Province, and
2. Actions in the Division Courts whose jurisdiction does not extend to any claim exceeding \$200.00.

After judgment has been recovered, a judge either before or after the oral examination of a judgment debtor on the *ex parte* application of a judgment creditor,—

“Upon affidavit by him or his solicitor, or some other person aware of the facts, stating that judgment has been recovered and that it is still unsatisfied, and to what extent, and that some third person is indebted to the judgment debtor and is within Ontario, may order that all debts owing or accruing from the third person (hereinafter called the garnishee) to the judgment debtor, shall be attached to answer the judgment debt, etc.”

And, “Upon a like application where the garnishee is not within Ontario, and upon its being made to appear on affidavit that the garnishee is so indebted to the judgment debtor, and that the debt to be garnisheed is one for which the garnishee might be sued within Ontario by the judgment debtor, an order may be made that such debt shall be attached to answer the judgment debt,” etc., etc.

It will be seen that these requirements effectually prevent the obtaining of a purely roving order of attachment, as it is necessary to establish the existence of some debt due by the garnishee to the judgment debtor, and the evidence of such a debt would necessarily disclose the office of the bank at which

it had been contracted. In cases in which the garnishee is "not within Ontario" it is clear that only the particular debt specified in the material on which the garnisheeing order is made could be attached. But in the cases in which the garnishee is "within Ontario" the form of the order is an attachment "of all debts owing to, or accruing due from the garnishee" so that although the immediate ground for making the order be a particular debt at some specified office, the scope of the order is wide enough to attach all other debts owing to the judgment debtor.

It has been expressly held by the Ontario courts that in the application of the law as to attachments, banking corporations created by the laws of the Dominion of Canada, and doing business within the Province, are potentially and actually "within Ontario." They are not to be regarded as foreign corporations carrying on business here, but they are in the same position as though the head office, or as it has been called, their "Residence," were in the province. A bank therefore which is indebted to a judgment debtor may be treated as any other garnishee "within Ontario," and is subject to have all debts owing by it to a judgment debtor attached by an order obtained in the manner above mentioned.

As is very well understood by bankers, their legal relationship to all persons depositing money with them, is that of debtor and creditor, and the amount at the credit of a depositor is a debt due to him by the bank. Now, it is quite true that for some purposes—as, for instance, the giving of notice of dishonour of bills, or the payment of customers' cheques—the various branches of the banks are regarded as independent institutions, nevertheless, a bank and its branches are held to be one for most purposes. This is, I think, particularly true as to the relationship of debtor and creditor existing between it and its depositors. As it is put in the judgment of the late Chief Justice Wilson in *Irwin v. Bank of Montreal* (38 U.C.R. 375):

"A Bank, although having many places of business is yet "the one body, the one debtor to the depositor. A customer "having money in different branches, has yet one debtor."

It follows therefore that if a garnisheeing is duly served on the bank, it must bind all amounts which the bank owes to the judgment debtor at any branch.

What constitutes due service is laid down by a rule of court, whereby it is provided that such an order,—

“May be served on the Cashier, Treasurer or Secretary, Clerk or Agent of such a Corporation, or of any branch or agency thereof in Ontario.”

Such a service in any branch or agency would, I think, be sufficient to affect the bank as a corporation in respect of a debt owing by it at any other agency whatsoever, and would bind the bank in respect of such debt.

In coming to the above conclusion, I have not overlooked the argument which can be founded on the great inconvenience that must probably often result to the bank from such a state of the law. The court however when pressed, as it has been with this argument, has distinctly refused to give weight to it in deciding legal questions, and it has been rather pertinently pointed out that any such inconvenience should be set off against the correlative advantage which a bank derives from being authorized to carry on business at a number of branches.

Neither have I overlooked that it might be said that to enable a creditor to effect a deposit in one branch by notifying another is giving him a higher right than is possessed by his debtor, inasmuch as a depositor is only entitled to draw against his account in the branch in which it is kept. I think the answer to this is that the attachment of a deposit is not a payment out. You are only staying its disposition until the parties are heard and their rights determined by the court. When that has been done, if the creditor be found entitled to the deposit, I do not think that he could claim under it that he would be awarded payment at any other place, or under any other conditions than his debtor would be entitled to.

The rules regulating the issue of attachment of debts due to an absconding debtor and the garnishment of debts by Division Courts, whether before or after judgment, are substantially the same as those relating to an attachment of debts due to a judgment debtor in the High Court, and the bank would be in a similar position in regard to them.

The courts have also the equitable jurisdiction in any pending action to grant an injunction before judgment, restraining a bank from paying out any money deposited in it. To obtain such an injunction before judgment a plaintiff must show that it is “just and convenient” that it should be grant-

ed, and in determining the justice and convenience of the application the court must have regard to legal reasons and principles which would render it necessary to so particularize the alleged deposit as would enable any official of the bank on whom the order of injunction was served to see at once the branch which it was sought to affect. I think I can say very positively that no general injunction applicable to all agencies could be obtained, at any rate *ex parte*, restraining the bank from paying over money to an alleged depositor, without, indeed, it were shown to the court that such depositor had accounts with all or many of the agencies of the bank.

It remains to consider the question of time at which a garnisheeing order, or an injunction, would become operative in respect of monies at other branches than that at which the service is effected. In the case of *Wilkes v. Bank of England* (4A and E 21), in which a payment of two bank post bills at the Gloucester Branch of the Bank of England to a bankrupt after notice of the bankruptcy had been served on the London office, was held to be illegal as against the Trustees in Bankruptcy, it was clearly indicated by the court that there must be a "reasonable" time allowed for communicating such notices before the happening of the event which raises the question. That principle I think, is well recognized in regard to all similar communications between an Agent and his Principal. What then would be a reasonable time in the case in question? At first it occurred to me that the proper course for the Manager of a Branch served with such an order would be to communicate it to the Head Office, and for that Office to communicate it to the different Branches. While this is no doubt a very proper requirement from the point of view of the internal management of the Bank, it would, I think be scarcely reasonable from the point of view of the attaching creditor. In fact, as regards any rights which he may have it would be decidedly unreasonable to transmit a notice from Vancouver to Montreal and from thence to Victoria, thus taking some fortnight to accomplish what by direct communication could be attained in a day or two. It appears to me therefore that the Manager of each such Branch should communicate the service of such an order on him to the Manager of every other Branch.

It might also be asked whether a Bank is required to make

such communications by telegram. I think the safe course would be, (and I have seen it so held some where or other) to ask the party serving the order whether telegraphic communications were desired, and if so, to require a deposit of the amount necessary to defray the expense. If such deposit were not made, I do not think that the Bank would be bound to incur the expense itself.

LEGAL PROBLEMS IN BANKING.

What is to be done with the person who opens an account or takes certificates of stocks, or registers bonds in his name with the word "trustee" added? In dealing with this question I am reminded of an incident that is told of Mr. Justice Maule, a very able and somewhat eccentric English judge, who many years ago was quite a character in English courts. A child seven or eight years of age was called as a witness for the Crown in a case of murder. The counsel for the Crown were not quite sure whether the child understood the nature of an oath. The child said he did not know what an oath was, whereupon the counsel asked him: "Now, my boy, what becomes in the next world of people who tell lies in this?" Justice Maule regarded the child with much interest and said thoughtfully: "If he can answer that question, he knows more than I do."

This will explain to you somewhat my own views in seeking to define the position of the anomalous trustee. By writing "trustee" after his name he gives notice to the banker and every one else that he is not the owner of the deposit or the stocks, but they belong to some one else. It is as if he put "agent" after his name and yet indicated no principal. As we have seen by the authorities cited above, he has no power to dispose of the property of another in any way except as he is specifically authorized. But to whom shall we go to look for this authority? The whole world are his principals. If we ask him we are bound to take any account he may give us, which would be to permit an agent to declare for himself the extent of the authority vested in him. The only solution which seems to present itself is to treat the term "trustee" as surplusage. That is, to deal with the matter just as though he had given no notice of a trust relationship but used simply his individual name. The trust is undeclared and therefore is not a trust of which anyone need take notice.—*Thomas Patterson.*

RIGHTS OF DEBENTURE HOLDERS.

A legal decision was rendered in the High Court of Justice in Ireland in February last which possesses interest for bankers in all parts of the world. It will be seen to deal with the rights of debenture holders when pledges of goods made in the ordinary course of business are concerned.

The case is outlined in the judgment of the Lord Chancellor, of which the following is a condensed report:

The case is that of *Cox v. Dublin City Distillery Co., Ltd.*, and was an appeal by the Hibernian Bank from the whole of the order of Mr. Justice Barton, dated 20th July, 1905. The order appealed from declared that the first mortgage debentures of the Dublin City Distillery Company took priority to the pledge of whiskey made to the bank by the company. The bank applied that this order be reversed, and that it be declared that the pledge made to them to secure an advance to the company of £13,771 is valid and effectual against these debentures, and that it ranked in priority to them.

The Lord Chancellor, in delivering judgment, said the question the court had to decide was one as to the priority of the claims between the debenture holders of the Dublin City Distillery Company and the Hibernian Bank, who held warrants for whiskey, the manufacture of the distillery. The case of *Cox v. the Distillery* was one by a debenture holder on behalf of himself and others. The bank had instituted an action before the Master of the Rolls. This was stayed, and the rights under it were being dealt with under a judgment of 16th March, 1905, made for the taking of accounts as to the claims of incumbrancers and creditors of the company. The bank held warrants to secure the advances, and the debenture holders contended that that claim was *puisne* to their claims. In his lordship's opinion, the first point was to ascertain the extent and character of the debentures. There were two issues: the first issue was of £3,500 worth of mortgage debentures bearing interest at the rate of 5 per cent. per annum. In September, 1890, the company demised all its freehold and leasehold property to trustees upon trust to permit the company to hold and enjoy all the same premises, and to carry on therein and therewith the business or businesses authorized by the memorandum of

association of the company until default should be made in payment of some principal moneys secured by the above 350 debentures of £10 each, or any of them, or of interest in respect of them for three calendar months after payment of it became due, or until it was proposed to wind up the company. And by the 15th clause of this deed the company covenanted to pay the principal moneys and interest secured by these debentures, and that they should be a first charge on the premises over all moneys which might thereafter be raised by the company by any means whatsoever. The company could nevertheless deal with the property for the purpose of carrying on its business; provided that "nothing herein contained shall be taken to create any mortgage or charge in priority to the charge hereby created." On the 9th November, 1895, a second series of debentures were issued, amounting to £25,000, in multiples of £10 at 5 per cent. per annum. These were in the same form as the first. The appellants were the bank to the company, and, as such, made advances to it. It made pledges of whiskey and of warrant for the delivery of whiskey to the bank, and the bank now claimed that the pledges (for advances) were paramount to the claim of the mortgages; and that the appellants' security was not a mortgage or charge of the character to give the debenture holders a prior claim; that the advances being for the purchase of grain with which the whiskey was made, did not become in law or equity *puisne* to them; that they having only a floating charge, it did not prevent the company obtaining such money in the ordinary course of business. There could be no question as to the validity of the debentures. Mr. Ronan had relied on some alleged difference between them and those issued in the *Bushmills* case; but his lordship attached no value to the distinction, and, inasmuch as the whiskey was given to secure an advance, he was of opinion that it came within the prohibition as to "nothing herein shall create a charge," etc., in priority to the debentures. As to the use the money was put to, he could not infer what was done with it; it may have been applied for any or many purposes. There remained the question of notice to the bank of the existence of the claim; that, his lordship must assume, was discussed somewhat in the court below. On the rights of either as discussed there he expressed no opinion. In the result, the whole case came round to the position in which it was before Mr. Justice Barton, and dealt with by him, and the whole question was in substance, whether it had been ruled by the decisions of this court. He (the Lord Chan-

cellor) held that it was within the decisions; that the appeal failed, and must be dismissed with costs.

Lord Justice FitzGibbon said he entirely concurred upon the main question of the case—the failure of the appellant was due simply to the state of facts. The transaction by which the whiskey became pledged to the bank he would treat as a pledge; a legal transfer of property by handing over the warrants, as a security for a debt—in substance and equity, a charge. Against that they had the words in the debentures, which were undistinguishable in any way from similar words used in the Bushmills case—the case on which the decision below principally depended. As to notice, he was of opinion that the proceedings in court must have given the appellants notice. As a matter of fact, the appellants were holders of some of these very debentures. They had perfect notice.

Lord Justice Holmes, in concurring, said the case had in one respect been brought before Mr. Justice Barton in an unsatisfactory way. There was clear and perfect claims of the debenture holders. The debentures stood in the same position as those in the Bushmills case. He agreed entirely that the claim of the bank could not be sustained.

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